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Executive Orders

EXECUTIVE ORDER BJ 10-19

Governor's Advisory Council on Disability Affairs
Amended Executive Order No. BJ 08-74

WHEREAS, Executive Order No. BJ 2008-74, issued on August 22, 2008, established the Governor's Advisory Council on Disability Affairs within the Governor's Office of Disability Affairs under the Office of Community Programs, Office of the Governor;

WHEREAS, it is in the best interest of the citizens of the State of Louisiana to facilitate access to opportunities needed for persons with disabilities through the continuance of the Governor's Advisory Council on Disability Affairs; and

WHEREAS, it is necessary to amend Executive Order No. BJ 2008-74 to reflect programmatic changes;

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

SECTION 1: Section 4 of Executive Order No. BJ 2008-74 is amended to read as follows:

SECTION 4: The Council shall be composed of a maximum of twenty-eight (28) members who, unless otherwise specified, shall be appointed by and serve at the pleasure of the governor.

- (1) The governor, or the governor's designee;
- (2) The state treasurer, or the state treasurer's designee;
- (3) A representative of the Disability Navigator Program of the Louisiana Workforce Commission;
- (4) The secretary of the Department of Transportation and Development, or the secretary's designee;
- (5) The director of the Governor's Office of Homeland Security and Emergency Preparedness, or the director's designee;
- (6) ne (1) member of the Louisiana State Senate, who serves on the Senate Committee on Health and Welfare, designated by the president of the Louisiana Senate;
- (7) One (1) member of the Louisiana House of Representatives, who serves on the House Committee on Health and Welfare, designated by the speaker of the Louisiana House of Representatives;

(8) A representative of the Division of Special Populations in the Department of Education;

(9) A representative of the state fire marshal's ADA Enforcement Personnel;

(10) The director of the Office of Elderly Affairs, or the director's designee;

(11) The chair of the Developmental Disabilities Council, or the chair's designee;

(12) The chair of the Advocacy Center, or the chair's designee;

(13) The chair of the Louisiana Assistive Technology Access Network, or the chair's designee;

(14) The chair of the Louisiana Rehabilitation Council, or the chair's designee;

(15) The chair of the Statewide Independent Living Council, or the chair's designee;

(16) A representative of the Office of Behavioral Health;

(17) The executive director of The Arc of Louisiana, or the executive director's designee;

(18) One (1) representative of disability services from an institution of higher education; and

(19) Ten (10) at-large members who have disabilities or have family members with disabilities.

SECTION 2: All other sections, subsections, and/or paragraphs of Executive Order No. BJ 2008-74 shall remain in full force and effect.

SECTION 3: This Order is effective upon signature and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of Louisiana, at the Capitol, in the City of Baton Rouge, on this 4th day of October, 2010.

Bobby Jindal
Governor

ATTEST BY
THE GOVERNOR
Jay Dardenne
Secretary of State
1010#090

Emergency Rules

DECLARATION OF EMERGENCY

Department of Children and Family Services Division of Programs Licensing Section

Child Placing Agencies

(LAC 48:I.Chapter 41 and LAC 67:V.Chapters 65 and 67)

The Department of Children and Family Services (DCFS), Division of Programs, Licensing Section has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), to repeal and amend sections of the LAC. Effective October 1, 2010, to comply with Act 64 of the 2010 Regular Session of the Louisiana Legislature, the DCFS repeals Title 48, Part I, Subpart 3, Chapter 41, and Title 67, Part V, Subpart 8, Chapter 65, and promulgates Title 67, Subpart 8, Residential Licensing, Chapter 73. This Rule shall remain in effect for a period of 120 days or until the Rule is finalized, whichever occurs first. It is necessary to publish an emergency rule because ordinary Rule making timelines do not allow sufficient time to finalize this Rule before the effective date of Act 64 which is October 1, 2010.

Title 48, Part I, Subpart 3, Chapter 41 and Title 67, Part V, Subpart 8, Chapter 65 are being repealed. Licensing regulations previously contained in these chapters have been consolidated and rewritten and will be promulgated as Title 67, Part V., Subpart 8, Chapter 73, Child Placing Agencies, in accordance with R.S. 46:1401 et seq.

Title 48

HEALTH AND HOSPITALS—GENERAL

Part I. General Administration

Subpart 3. Licensing

Chapter 41. Child Placing Agencies with and without Adoption Services

Subchapter A. General Provisions

§4101. Introduction

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21:1256 (November 1995), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§4103. Licensing Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21:1258 (November 1995), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§4105. Administration and Organization

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21:1258 (November 1995), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§4107. Personnel

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21:1258 (November 1995), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§4109. Social Services Related to Child Placement

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21:1258 (November 1995), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§4111. Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21:1259 (November 1995), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

Subchapter B. Foster Care Services Module

§4113. Family Foster Care Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21:1259 (November 1995), LR 31:2955 (November 2005), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

Subchapter C. Adoption Services Module

§4115. Adoption Services

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), amended the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 21:1260 (November 1995), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§4117. Effective Date

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended LR 15:546 (July 1989), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

Title 67

SOCIAL SERVICES

Part V. Community Services

Subpart 8. Residential Licensing

Chapter 65. Transitional Living

§6501. Purpose

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:92 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2685 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1561 (August 2009), amended LR 36:791 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6503. Authority

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S.46:1401-1424 and R.S. 46:1414.1.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:92 (January 2004), repromulgated by the Department of Social Services, Office of Family Support, LR 33:2686 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1561 (August 2009), amended LR 36:791, 841 (April 2010), amended by the Department of Children and Family Services, Child Welfare Section, LR 36:1462 (July 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6505. Waivers

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2686 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1561 (August 2009), amended LR 36:791 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6507. Application for Licensure

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2686 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1561 (August 2009), amended LR 36:791, 835 (April 2010), repromulgated LR 36:1274 (June 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6509. Definitions

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2686 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1561 (August 2009), amended LR 36:791 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6511. Inspections

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2686 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1562 (August 2009), amended LR 36:792 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6513. General Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:93 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2687 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1562 (August 2009), amended LR 36:792 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6515. Governing Body

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2687 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1562 (August 2009), amended LR 36:792 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6517. Accounting

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2687 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1563 (August 2009), amended LR 36:792 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6519. Administrative Files

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2687 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1563 (August 2009), amended LR 36:792 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6521. Program Description

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:94 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2688 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1563 (August 2009), amended LR 36:793 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6523. Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2688 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1563 (August 2009), amended LR 36:793 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6525. Confidentiality and Security of Files

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2688 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1564 (August 2009), amended LR 36:793 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6527. Staffing Requirements

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2688 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1564 (August 2009), amended LR 36:793 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6529. Staff Plan and Practices

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2689 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1564 (August 2009), amended LR 36:794 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6531. Personnel File

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:95 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2689 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1564 (August 2009), amended LR 36:794 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6533. Orientation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2689 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1565 (August 2009), amended LR 36:794 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6535. Training

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:96 (February 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2689 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1565 (August 2009), amended LR 36:794 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6537. Staff Communications

Repealed.

30:99 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2693 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1569 (August 2009), amended LR 36:798 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6559. Transportation

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2693 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1569 (August 2009), amended LR 36:798 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6561. Physical Environment

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2693 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1569 (August 2009), amended LR 36:798 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6563. Capacity

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:99 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2693 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1569 (August 2009), amended LR 36:798 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6565. Emergency Procedures

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:100 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2693 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1569 (August 2009), amended LR 36:798 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6567. Food Service

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and R.S. 46:1401-1424.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:100 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2693 (December 2007), repromulgated by the Department of

Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:798 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§6569. Discharge

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477, R.S. 46:1451 et seq. and Act 726 of the 2001 Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of the Secretary, Bureau of Licensing, LR 30:100 (January 2004), repromulgated by the Department of Social Services, Office of the Secretary, Bureau of Residential Licensing, LR 33:2694 (December 2007), repromulgated by the Department of Social Services, Office of Community Services, LR 35:1570 (August 2009), amended LR 36:798 (April 2010), repealed by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

Subpart 8. Residential Licensing

Chapter 73. Child Placing Agencies—General Provisions

§7301. Purpose

A. It is the intent of the legislature to protect the health, safety, and well being of the children of the state who are in out-of-home care on a regular or consistent basis. Toward that end, it is the purpose of Chapter 14 of Title 46 of the Louisiana Revised Statutes of 1950 to establish statewide minimum standards for the safety and well being of children, to ensure maintenance of these standards, and to regulate conditions in these providers through a program of licensing. It shall be the policy of the state to ensure protection of all individuals placed by a provider and to encourage and assist in the improvement of provided services. It is the further intent of the legislature that the freedom of religion of all citizens shall be inviolate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section LR 37:

§7303. Authority

A. Legislative Provisions

1. The Child Care Facility and Child Placing Act 286 of 1985 as amended (R.S. 46:1401-1424) is the legal authority under which the department prescribes minimum standards for the health, safety and well-being of children placed in foster care and adoption. The rules are in LAC 67:V.Subpart 8, Chapter 73.

2. Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1978 and Act 429 of 1981 Louisiana legislature made permanency planning for children in foster care a matter of federal and state law and public social policy.

3. Public Law 103-382, the Multiethnic Placement Act of 1994, the U.S. Constitution and Title VI of the Civil Rights Act of 1964 provide that an entity which receives federal financial assistance and is involved in adoption or foster care placements may not discriminate on the basis of the race, color or national origin of the adoptive or foster parent or the child involved.

B. Facilities Requiring a License

1. Any institution, society, agency, corporation, facility, person or persons or any other group other than the parent(s) or guardian(s) of a child, engaged in placing a child

or children in foster care and/or adoption in Louisiana or in placing a child or children from Louisiana into another state or foreign country is required to be licensed as follows or to work through a licensed agency in the state.

a. Any agency with an office and staff within the state is required to have a license in Louisiana.

b. Any out-of-state agency placing a child in Louisiana is required to have a license issued by the state in which the main office is located and have a Louisiana license or make placements in Louisiana in cooperation with an agency licensed in Louisiana.

c. A child placing agency (CPA) which is operated in conjunction with other programs subject to licensing shall obtain a license for each of the programs.

C. Exemptions

1. The parent(s) or legal custodian(s) are authorized to place a child directly into a foster or adoptive home without a license. The parent(s) or custodian shall not be represented in placing the child(ren) by other than a licensed CPA.

2. Pursuant to ACT 64 of the 2010 Legislative Session, child placing agencies within the Department of Children and Family Services shall be exempt from the provisions of this Chapter. The department is authorized and mandated to perform its child-placing functions in accordance with the standards promulgated by the department for licensed child-placing agencies.

D. Penalties. As stipulated in R.S. 46:1421, whoever operates any child care facility without a valid license shall be fined not less than \$75 nor more than \$250 for each day of such offense.

E. Waiver Request

1. The secretary of the department, in specific instances, may waive compliance with a standard, as long as the health, safety, and well-being of the staff and/or the health, safety, rights or well-being of residents is not imperiled. Standards shall be waived only when the secretary determines, upon clear and convincing evidence, that the economic impact is sufficient to make compliance impractical for the provider despite diligent efforts, and when alternative means have been adopted to ensure that the intent of the regulation has been carried out.

2. Application for a waiver shall be made in writing and shall include:

a. a statement of the provisions for which a waiver is being requested; and

b. an explanation of the reasons why the provisions cannot be met and why a waiver is being requested.

3. The request for a waiver will be answered in writing and approvals will be maintained on file by the requesting provider and the department. The department shall document the reasons for granting the waiver. A waiver shall be granted for a period of one year or as specified by the secretary and will not be renewed if the basis for it no longer exists. If the provider has been granted a waiver by the department, the waiver will be identified on the survey report of any subsequent annual survey report.

F. Variance Request

1. The secretary of the department, in specific instances, may grant an exception to the standards temporarily for the purposes of allowing emergency placement of a child as long as the health, safety, and well-

being of the child or other children in the home is not imperiled.

2. A request for a variance shall be made in writing and shall include a statement of the provisions for which the variance is being requested.

3. The request for a variance will be answered in writing and specify the period of time for which the variance is being granted. A variance may be granted for a length of time not to exceed 90 days, and may be renewed one time, for good cause shown, for an additional 90 day period not to exceed 180 days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section LR 37:

§7305. Definitions

Abuse—any one of the following acts which seriously endangers the physical, mental, or emotional health of the child:

1. the infliction, attempted infliction, or, as a result of inadequate supervision, the allowance of the infliction or attempted infliction of physical or mental injury upon the child by a parent or any other person;

2. the exploitation or overwork of a child by a parent or any other person; and

3. the involvement of the child in any sexual act with a parent or any other person, or the aiding or toleration by the parent or the caretaker of the child's sexual involvement with any other person or of the child's involvement in pornographic displays or any other involvement of a child in sexual activity constituting a crime under the laws of this state.

Affiliate—

1. with respect to a partnership, each partner thereof;

2. with respect to a corporation, each officer, director and stockholder thereof;

3. with respect to a natural person, that person and any individual related by blood, marriage, or adoption within the third degree of kinship to that person; any partnership, together with any or all its partners, in which that person is a partner; and any corporation in which that person an officer, director or stockholder, or holds, directly or indirectly, a controlling interest;

4. with respect to any of the above, any mandatory, agent, or representative or any other person, natural or juridical acting at the direction of or on behalf of the licensee or applicant; or

5. director of any such.

Child—a person who has not reached age eighteen or otherwise been legally emancipated. The words "child" and "children" are used interchangeably in this Chapter.

Child Placing Agency—any institution, society, agency, corporation, facility, person or persons, or any other group engaged in placing children in foster care or with substitute parents for temporary care or for adoption or engaged in assisting or facilitating the adoption of children, or engaged in placing youth in transitional placing programs but shall not mean a person who may occasionally refer children for temporary care.

Complaint—an allegation that any person is violating any provisions of these standards or engaging in conduct, either by omission or commission, that negatively affects the

health, safety, rights, or welfare of any child who is receiving services from a CPA.

Criminal Background Check—the requirement of state law and federal funding rule for checking criminal records for certain offenses prior to employing an individual who will have access to a child in a CPA as well as for prospective foster or adoptive parents.

Department—the Department of Children and Family Services.

Director—the person with authority and responsibility for the on-site, daily implementation and supervision of the overall provider's operation.

Disqualification Period—means the prescriptive period during which the department shall not accept an application from a provider. Any unlicensed operation during the disqualification period shall interrupt running of prescription until the department has verified that the unlicensed operation has ceased.

Effective Date—the date of the revocation, denial, or non-renewal of a license shall be the last day for applying to appeal the action, if the action is not appealed.

Facility—any place, program, facility or agency operated or required by law to operate under a license, including facilities owned or operated by any governmental, profit, nonprofit, private, or church agency.

Foster Care—a social service that provides a planned period of substitute care in a foster home, a relative's home, or other living arrangements for children or youth when their families cannot or will not care for them.

Foster Home—a private home of one or more persons who provide continuing 24-hour substitute parenting for one to six children living apart from their parent(s) or guardian's and are placed for foster care under the supervision of the department or of a licensed child-placing provider.

Foster Parent—an individual(s) who provides foster care with the approval and under the supervision of the department or of a licensed child-placing provider.

Human Service Field—the field of employment similar or related to social services such as social work, psychology, sociology, special education, nursing, rehabilitation counseling, juvenile justice and/or corrections through which a person gains experience in providing services to the public and/or private children that serves to meet the years of experience required for a job as specified on the job description for that position.

Home Study—an evaluation of a home environment conducted in accordance with applicable requirements of the state in which the home is located to determine whether a proposed placement of a child would meet the individual needs of the child, including the child's safety, permanency, health, well-being, and mental, emotional, and physical development.

Injury of Unknown Origin—an injury where the source of the injury was not observed by any person or the source of the injury could not be explained by the child and the injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma).

Interstate Home Study—a home study conducted by a state at the request of another state to facilitate an adoptive or foster placement in the state of a child in foster care under the responsibility of the state.

Legal Custody—the right to have physical custody of the child and to determine where and with whom the child shall reside; to exercise the rights and duty to protect, train, and discipline the child; the authority to consent to major medical, psychiatric, and surgical treatment; and to provide the child with food, shelter, education, and ordinary medical care, all subject to any residual rights possessed by the child's parents.

Legal Guardianship—the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child and the responsibility for the child's general welfare until he reaches the age of majority, subject to any child rights possessed by the child's parents. It shall include the rights and responsibilities of legal custody.

Legal Guardian—the caretaker in a legal guardianship relationship. This could be the parent or any provider representative.

License—any license issued by the department to operate any child care facility or CPA as defined in R.S. 46:1403.

Neglect—the refusal or unreasonable failure of a parent or caretaker to supply the child with necessary food, clothing, shelter, care, treatment, or counseling for any injury, illness, or condition of the child, as a result of which the child's physical, mental, or emotional health and safety is substantially threatened or impaired (Ch.C Art 603).

Parent—any living person who is presumed to be a parent under the Civil Code or a biological or adoptive mother or father of a child.

Provider—an entity that is responsible for the placement of children in foster care to include the Department of Children and Family Services and any private child placing provider licensed by the department. All owners or operators of a facility, including the director of such facility. If the owner is a corporate entity the owners are the officers, directors, and shareholders of the facility.

Related or Relative—a natural or adopted child or grandchild of the caregiver or a child in the legal custody of the caregiver.

Respite Care—temporary care provided by another individual or family to provide relief to a foster care parent or to allow an adjustment period for the child placed in out-of-home care.

Service Plan—a written plan of action usually developed between the family, child, social worker, and other service providers, that identifies needs, sets goals, and describes strategies and timelines for achieving goals.

Specialized Foster Care—a foster care service to accommodate the needs of a child or youth who is unable to live with the child/youth's own family and who has either an emotional, behavior, medical or developmental problem that requires more time consuming and specialized care with professional oversight based on the child's specific needs but whose needs prevent placement in a basic level foster home.

Substantial Bodily Harm—a physical injury serious enough that a prudent person would conclude that the injury required professional medical attention. It does not include minor bruising, the risk of minor bruising, or similar forms of minor bodily harm that will resolve healthily without professional medical attention.

Therapeutic Foster Care—a foster care service to accommodate the needs of a child or youth who require

extremely time consuming, specialized care and supervision from a trained person, and ongoing, frequent professional oversight, based on the child's specific needs but whose needs prevent placement in a basic or specialized foster home.

Transitional Placing Program—a program that places youth, at least 16 years of age, in an independent living situation supervised by a provider with the goal of preparing the youth for living independently without supervision.

Unlicensed Operation—operation of any child care facility or child-placing agency, at any location, without a valid, current license issued by the department.

Variance—an exception granted temporarily for the purpose of emergency admittance of specific children.

Volunteer—an individual who works for the provider and whose work is uncompensated. This may include students, interns, tutors, counselors, and other non-staff individuals who may or may not work directly with the child. Persons who visit the provider solely for providing activities for the provider and who are not left alone with the child are not considered as volunteers.

Waiver—an exemption granted by the secretary of the department, or designee, from compliance with a standard that will not place the child or staff member at risk.

Youth—a person not less than sixteen years of age nor older than twenty one years of age.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7307. Licensing Requirements

A. General Provisions

1. Before beginning operation, it is mandatory to obtain a license from the department.

2. In addition all facilities shall comply with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq. (ADA).

B. Initial Licensing Application Process

1. An initial application for licensing as a CPA provider shall be obtained from the department. A completed initial license application packet for an applicant shall be submitted to and approved by department prior to an applicant providing CPA services. The completed initial licensing packet shall include:

- a. application and non-refundable fee;
- b. Office of Fire Marshal approval for occupancy; if applicable;
- c. Office of Public Health, Sanitarian Services approval, if applicable;
- d. city fire department approval, if applicable;
- e. city or parish building permit office approval, if applicable;
- f. local zoning approval, if applicable;
- g. copy of proof of current general liability and property insurance for facility;
- h. copy of proof of insurance for vehicle(s);
- i. organizational chart or equivalent list of staff titles and supervisory chain of command;
- j. director resumé and proof of educational requirement;
- k. supervisor and case manager resumé and proof of educational requirement;

- l. list of consultant/contract staff to include name, contact info and responsibilities;
- m. copy of program plan;
- n. copy of table of contents of all policy and procedure manuals;
- o. copy of evacuation plan, if applicable;
- p. copy of house rules and regulations, if applicable;
- q. copy of grievance process;
- r. a floor sketch or drawing of the premises to be licensed, if applicable; and
- s. any other documentation or information required by the department for licensure.

2. If the initial licensing packet is incomplete, the applicant will be notified of the missing information and will have 10 working days to submit the additional requested information. If the department does not receive the additional requested information within the 10 working days, the application will be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a CPA shall submit a new initial licensing packet with a new application fee to start the initial licensing process. Once the department has determined the application is complete, the applicant will be notified to contact the department to schedule an initial survey. If an applicant fails to contact the department and coordinate the initial survey within 45 days of the notification, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a CPA shall submit a new initial licensing packet with a new application fee to re-start the initial licensing process.

C. Initial Licensing Survey

1. Prior to the initial license being issued to the CPA, an initial licensing survey shall be conducted on-site at the CPA to assure compliance with all licensing standards. The initial licensing survey shall be an announced survey. No resident shall be provided services by the CPA until the initial licensing survey has been performed and the department has issued an initial license.

2. In the event the initial licensing survey finds the CPA is compliant with all licensing laws and standards, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees, the department may issue a full license to the provider after receipt of the annual licensing fee as prescribed by the department. The license shall be valid until the expiration date shown on the license, unless the license is modified, extended, revoked, suspended, or terminated.

3. In the event the initial licensing survey finds the CPA is noncompliant with any licensing laws or standards, or any other required statutes, laws, ordinances, rules, or regulations that present a potential threat to the health, safety, or welfare of the participants, the department shall deny the initial license.

4. In the event the initial licensing survey finds that the CPA is noncompliant with any licensing laws or standards, statutes, laws, ordinances, or rules but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the department may issue an initial license for a period not to exceed three months. The provider shall submit a corrective action plan to the

department. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which corrections shall be completed. The department must approve the corrective action plan prior to issuing the initial license. If the department determines, prior to the expiration date of the initial license, that such noncompliance or deficiencies have been corrected, a license will be issued. If the department determines that such noncompliance or deficiencies have not been corrected, the license will expire and all operations shall cease. The provider shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

5. The license shall be displayed in a prominent place at the CPA except that those operated by a church or religious organization may be exempt from such requirement provided the license is available upon request.

6. Once a CPA has been issued a license, the department shall conduct licensing and other surveys at intervals deemed necessary by the department to determine compliance with licensing standards, as well as, other required statutes, laws, ordinances, rules, regulations, and fees. These surveys shall be unannounced.

7. The department shall remove any child or all children from any home or when it is determined that one or more deficiencies exist within the home that place the health and well being of the child or children in imminent danger. The child or children shall not be returned to the home until such time as it is determined that the imminent danger has been removed.

8. Department staff shall be given access to all areas of the facility and to all relevant files during any licensing or other survey. They shall be allowed to interview any provider staff or participant as necessary to conduct the survey.

9. If an applicant or member of his/her immediate family has had a previous license revoked, refused or denied, upon reapplication, the applicant shall provide written evidence that the reason for such revocation, refusal or denial no longer exists.

D. Fees

1. There shall be an annual fee as prescribed by the department for a license or renewed license, payable to the department 30 days prior to the date of issuance by certified check or money order. Non-payment of fee by due date may result in revocation of licensing.

2. Other license fees include:

a. replacement fee of \$25 for replacing a license when changes are requested, i.e., change in capacity, name change, age range, etc. No replacement charge will be incurred when the request coincides with the regular renewal of a license;

b. a processing fee of \$5 for issuing a duplicate license with no changes.

E. Renewal of License

1. The license shall be renewed on an annual basis.

2. The provider shall submit, at least 60 days prior to its license expiration date, a completed renewal application form and applicable fee. The following documentation must also be included:

a. Office of Fire Marshal approval for occupancy;

b. Office of Public Health, Sanitarian Services approval;

c. city fire department approval, if applicable;

d. copy of proof of current general liability and property insurance for facility; and

e. copy of proof of insurance for vehicle(s).

3. Prior to renewing the CPA license, an on-site survey shall be conducted to assure compliance with all licensing laws and standards. If the CPA is found to be in compliance with the licensing laws and standards, and any other required statutes, laws, ordinances, or regulations, the license shall be renewed for a 12 month period.

4. In the event the annual licensing survey finds the CPA is non-compliant with any licensing laws or standards, or any other required statutes, ordinances or regulations but the department, in its sole discretion, determines that the noncompliance does not present a threat to the health, safety, or welfare of the participants, the provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on such non-compliance or deficiencies cited but no later than 10 days from the date of notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which correction(s) shall be completed. Failure to submit an approved corrective action plan timely shall be grounds for non-renewal.

5. If it is determined that such noncompliance or deficiencies have not been corrected prior to the expiration of the license, the department may issue an extension of the license not to exceed to 60 days.

6. When it is determined by the department that such noncompliance or deficiencies have been corrected, a license will be issued for a period not to exceed 12 months.

7. If it is determined that all areas of noncompliance or deficiencies have not been corrected prior to the expiration date of the extension, the department may revoke the license.

F. Notification of Changes

1. A license is not transferable to another person or location.

2. When a provider changes location, it is considered a new operation and a new application and fee for licensure shall be submitted 30 days prior to the anticipated move. All items listed in §7307.B.1 shall be in compliance for the new location. An onsite survey is required prior to change of location.

3. When a provider is initiating a change in ownership a written notice shall be submitted to the department. Within five working days of the change of ownership, the new owner shall submit a completed application, the applicable licensing fee and a copy of bill of sale or a lease agreement.

4. The provider shall provide written notification to the department within 30 days of changes in administration and professional personnel, program direction and admission criteria. A statement to the qualifications of the new employee shall be sent to the office.

G. Denial, Revocation, or Non-renewal of License

1. An application for a license may be denied, revoked or not renewed for any of the following reasons:

a. cruelty or indifference to the welfare of the residents in care;

b. violation of any provision of the standards, rules, regulations, or orders of the department;

c. disapproval from any whose approval is required for licensing;

d. nonpayment of licensing fee or failure to submit a licensing application;

e. any validated instance of abuse, neglect, corporal punishment, physical punishment, or cruel, severe or unusual punishment, if the owner is responsible or if the staff member who is responsible remains in the employment of the licensee;

f. the facility is closed with no plans for reopening and no means of verifying compliance with minimum standards for licensure; or

g. any act of fraud such as falsifying or altering documents required for licensure;

h. provider refuses to allow the Licensing Section to perform mandated duties, i.e., denying entrance to the facility, lack of cooperation for completion of duties, intimidating or threatening DCFS staff, etc.

2. Even if a facility is otherwise in substantial compliance with these standards, an application for a license may be denied, revoked or not renewed for any of the following reasons:

a. the owner, director, officer, board of directors member, or any person designated to manage or supervise the provider or any staff providing care, supervision, or treatment to a resident of the facility has been convicted of or pled guilty or *nolo contendere* to any offense listed in R.S. 15:587.1. A copy of a criminal record check performed by the Louisiana State Police (LSP) or other law enforcement provider, or by the Federal Bureau of Investigation (FBI), or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a rebuttal presumption that such a conviction or plea exists;

b. the provider, after being notified that an officer, director, board of directors member, manager, supervisor or any employee has been convicted of or pled *nolo contendere* to any offense referenced above, allows such officer, director, or employee to remain employed, or to fill an office of profit or trust with the provider. A copy of a criminal record check performed by the LSP or other law enforcement provider, or by the FBI, or a copy of court records in which a conviction or plea occurred, indicating the existence of such a plea or conviction shall create a reputable presumption that such a conviction or plea exists;

c. failure of the owner, director or any employee to report a known or suspected incident of abuse or neglect to child protection authorities;

d. revocation or non-renewal of a previous license issued by a state or federal provider;

e. a substantial history of non-compliance with licensing statutes or standards, including but not limited to failure to take prompt action to correct deficiencies, repeated citations for the same deficiencies, or revocation or denial of any previous license issued by the department;

f. failure to timely submit an application for renewal or to timely pay required fees; and/or

g. operating any unlicensed facility and/or program.

3. If a license is revoked, denied or refused, a license may also be denied or refused to any affiliate of the licensee

or applicant. For the purpose of this Section, "affiliate" means:

a. with respect to a partnership, each partner thereof;

b. with respect to a corporation, each officer, director and stockholder thereof; and

c. with respect to a natural person: anyone related within the third degree of kinship to that person; each partnership and each partner thereof which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.

4. In the event a license is revoked or renewal is denied, (other than for cessation of business or non-operational status), or voluntarily surrendered to avoid adverse action any owner, officer, member, manager, director or administrator of such licensee shall be prohibited from owning, managing, directing or operating another licensed facility for a period of not less than two years from the date of the final disposition of the revocation or denial action. The lapse of two years shall not automatically restore a person disqualified under this provision to eligibility for employment. The department, at its sole discretion, may determine that a longer period of disqualification is warranted under the facts of a particular case.

H. Posting of Notices of Revocation

1. The notice of revocation of the license shall be prominently posted.

a. The Department of Children and Family Services shall prominently post a notice of revocation action at each public entrance of the CPA within one business day of such action. This notice must remain visible to the general public, other placing agencies, parents, guardians, and other interested parties who are involved with children who attend the child care facility.

b. It shall be a violation of these rules for a provider to permit the obliteration or removal of a notice of revocation that has been posted by the department. The provider shall ensure that the notice continues to be visible to the general public, other placing agencies, parents, guardians, and other interested parties throughout the pendency of any appeals of the revocation.

c. The provider shall notify the department's licensing section in writing immediately if the notice is removed or obliterated.

d. Failure to maintain the posted notice of revocation required under these rules shall be grounds for denial, revocation or non-renewal of any future license.

I. Disqualification of Facility and Provider

1. If a facility's license is revoked or not renewed due to failure to comply with state statutes and licensing rules, the department shall not accept a subsequent application from the provider for that facility or any new facility for a minimum period of two years after the effective date of revocation or non-renewal or a minimum period of two years after all appeal rights have been exhausted, whichever is later (the disqualification period). Any pending application by the same provider shall be treated as an application for a new facility for purposes of this section and shall be denied and subject to the disqualification period. Any subsequent application for a license shall be reviewed by the secretary or her designee prior to a decision being made to grant a

license. The department reserves the right to determine, at its sole discretion, whether to issue any subsequent license.

2. Any voluntary surrender of a license by a facility facing the possibility of adverse action against its license (revocation or non-renewal) shall be deemed to be a revocation for purposes of this rule, and shall trigger the same disqualification period as if the license had actually been revoked.

3. In addition, if the applicant has had a substantial history of non-compliance, including but not limited to revocation of a previous license, operation without a license, or denial of one or more previous applications for licensure, the department may refuse to accept a subsequent application from that applicant for a minimum period of 24 months after the effective date of denial.

4. With respect to an application in connection with the revoked, denied, or not renewed facility, the disqualification period provided in this Section shall include any affiliate of the provider.

J. Appeal Process

1. If the department refuses to grant or renew a license, if a license is revoked, the procedure will be as follows.

a. The department shall notify the licensee, or applicant in writing of the denial or revocation and the reasons for that denial or revocation and the right of appeal.

b. The program director or owner may appeal this decision by submitting a written request with the reasons to the secretary, Department of Children and Family Services, Bureau of Appeals, P. O. Box 2994, Baton Rouge, LA 70821-9118. This written request shall be postmarked within 15 days of the receipt of the notification in §7107.H.1 above.

c. The Division of Administrative Law shall set a hearing to be held within 30 days after receipt of such a request except as provided in the Administrative Procedures Act.

d. An administrative law judge shall conduct the hearing. Within 90 days after the date the appeal is filed, the administrative law judge shall notify the appellant in writing of the decision, either affirming or reversing the original decision. If the department's decision is upheld, the facility shall terminate operation immediately.

2. If the facility continues to operate without a license, the department may file suit in the district court in the parish in which the facility is located for injunctive relief.

K. Voluntary Closure

1. When a licensee voluntarily ceases operation, the licensee shall notify the department in writing at least 30 days before the closure date.

2. The provider shall make adequate preparation and arrangements for the care, custody and control of any children in the custody and/or care of the provider.

3. The provider shall make arrangements for the preservation of records.

L. Complaint Process

1. In accordance with R.S. 46:1418, the department shall investigate all complaints (except complaints concerning the prevention or spread of communicable diseases), including complaints alleging abuse or neglect, within prescribed time frames as determined by the department based on the allegation(s) of the complaint. All complaint investigation will be initiated within 30 days.

2. All complaint surveys shall be unannounced surveys.

3. A written report of any noncompliance or deficiencies will be given to the provider. The provider shall be required to submit a corrective action plan to the department for approval. The department shall specify the timeline for submitting the corrective action plan based on the areas of non-compliance cited but no later than 10 days from the date of receipt of the notification. The corrective action plan shall include a description of how the deficiency shall be corrected and the date by which corrections shall be completed. If it is determined that all areas of noncompliance or deficiencies have not been corrected, the department may revoke the license.

4. Except in cases alleging abuse or neglect, the complainant will be notified in writing of the results of the complaint investigation conducted by the department's licensing section.

5. If, because of the nature of the allegations, state law or department policy requires that the complaint be handled by another office, or board (including another office or board within the department), the complaint will be referred to the appropriate office or board without delay. Upon such referral, except in cases involving abuse or neglect, the complainant will be notified, in writing, of the referral.

6. The complaint procedure shall be posted conspicuously in the facility including the name, address, and telephone number of the required department units to be notified.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7309. Administration and Operation

A. Department Access

1. The provider shall allow representatives of the department in the performance of their mandated duties to inspect all aspects of a program's function that impacts on children and to interview any staff member or child. The department representatives shall be admitted immediately and without delay, and shall be given free access to all areas of a facility, including its grounds.

2. The provider shall make any information that the provider is required to have under the present standards, and any information reasonably related to determination of compliance with these standards available to the department. The children's rights shall not be considered abridged by this standard.

B. Other Jurisdictional Approvals

1. The provider shall comply and show proof of compliance with all relevant standards, regulations and requirements established by federal, state, local and municipal regulatory bodies.

2. Except for a child in the custody of or otherwise made the legal responsibility of the department or the Department of Corrections, Office of Juvenile Justice, the provider shall be responsible for obtaining the following:

a. agreement for voluntary care signed by the custodian; or

b. order from a court of competent jurisdiction placing the child into the custody of the child-placing provider.

C. Governing Body. The provider shall have an identifiable governing body with responsibility for and authority over the policies, procedures and activities of the provider.

1. The provider shall have documents identifying all members of the governing body, their addresses, the term of their membership (if applicable), officers of the governing body (if applicable) and the terms of office of all officers (if applicable).

2. When the governing body of a provider is composed of more than one person, the governing body shall hold formal meetings at least twice a year.

3. When the governing body is composed of more than one person, a provider shall have written minutes of all formal meetings of the governing body and bylaws specifying frequency of meetings and quorum requirements.

D. Responsibilities of a Governing Body. The governing body of the provider shall:

1. ensure the provider's compliance and conformity with the provider's charter;

2. ensure the provider's continual compliance and conformity with all relevant federal, state, local and municipal laws and standards;

3. ensure the provider is adequately funded and fiscally sound by reviewing and approving the provider's annual budget or cost report;

4. ensure the provider is housed, maintained, staffed and equipped appropriately considering the nature of the provider's program;

5. designate a person to act as director and delegate sufficient authority to this person to manage the provider;

6. formulate and annually review, in consultation with the director, written policies and procedures concerning the provider's philosophy, goals, current services, personnel practices and fiscal management;

7. have the authority to dismiss the director;

8. meet with designated representatives of the department whenever required to do so;

9. inform designated representatives of the department prior to initiating any substantial changes in the program, services or physical location of the provider.

E. Authority to Operate

1. A private provider shall have documentation of its authority to operate under state law.

2. A privately owned provider shall have documentation identifying the names and addresses of owners.

3. A corporation, partnership or association shall identify the names and addresses of its members and officers and shall, where applicable, have a charter, partnership agreement, constitution, and articles of association or bylaws.

F. Accessibility of Director. The director, or a person authorized to act on behalf of the director, shall be accessible to provider staff or designated representatives of the department at all times (24 hours per day, 7 days per week).

G. Statement of Philosophy

1. The provider shall have a written statement of its child placing philosophy, purpose and program. The statement shall contain a description of all the services the provider provides to include:

a. the extent, limitation, and scope of the services for which a license is sought;

b. the geographical area to be served; and

c. the ages and types of children to be accepted for placement.

2. The statement shall be one that has been adopted by the governing body. When the provider is operated under a charter or articles of incorporation, all of its functions shall be stated therein.

3. When a provider adds a new function to its program, its governing body shall adopt a supplementary statement of such function.

H. Policies and Procedures

1. The provider shall have a clearly defined intake policy in keeping with its stated purpose and it should be clear from the practices of the provider that it is carrying out these purposes.

a. Provider intake policy shall prohibit discrimination on the basis of race, color, creed, sex, national origin, handicapping condition, or ancestry.

b. A provider shall have a written description of admission policies and criteria which expresses the needs, problems, situations or patterns best addressed by its program. These policies shall be available to the legally responsible person for any child referred for placement.

2. The provider shall have operational and program policy and procedure manuals that are current and clearly stated in writing to ensure the practices of the provider are in keeping with its stated purpose and with minimum requirements for child placement.

3. The provider policies and procedures shall cover such areas as:

a. personnel;

b. admission;

c. social services related to child placement;

d. financial arrangements;

e. medical care;

f. personal care and supervision for children;

g. discipline;

h. resource development and utilization;

i. social services related to post-placement;

j. abuse and neglect;

k. confidentiality;

l. records;

m. complaints; and

n. grievances.

4. The provider shall develop written policies and procedures regarding employees of the provider serving as a foster parent or respite care provider.

5. The provider shall develop written policies and procedures that address the prevention or appearance of:

a. a conflict of interest; or

b. misuse of influence.

I. Location and Equipment

1. The provider shall provide suitable space for the following purposes:

a. office and reception areas which provide comfort, safety, privacy, and convenience for children and staff;

b. areas for confidential interviewing with parent(s) and children and visitation between parent(s) and children if applicable to the program;

c. storage areas for personnel and child records which provide controlled access, retrieval, and confidentiality.

2. The provider shall maintain suitable equipment in good working condition for the operation of the office and the functioning of the staff.

3. The provider shall provide furnishings which are clean and safe.

4. The provider shall assist children and families in arranging transportation necessary for implementing the child's service plan.

5. The provider shall have means of transporting children which are equipped with safety seats in accordance with the laws and standards.

6. The provider and staff shall maintain and operate vehicles used for transporting children in safe condition, in conformity with appropriate motor vehicle laws and standards.

7. The provider shall carry liability insurance or determine that it is carried on all offices and vehicles used for providing services and transporting children.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7311. Provider Responsibilities

A. Human Resources

1. Policies and Procedures. The provider shall have written policies and procedures that include:

a. a plan for recruitment, screening, orientation, ongoing training, development, supervision, and performance evaluation of staff members to include contract services and volunteers;

b. written job descriptions for each staff position including volunteers;

c. health screening of all staff in accordance with public health guidelines to include screening for communicable diseases;

d. an employee grievance process;

e. abuse and neglect reporting procedures that require all employees to report any incidents of abuse or neglect whether that abuse or neglect is done by another staff member, a family member, a child, or any other person; and

f. preventing discrimination.

2. Personnel Requirements

a. The provider shall employ a sufficient number of qualified staff and delegate sufficient authority to such staff to perform the following functions:

i. administrative;

ii. fiscal;

iii. clerical;

iv. child services;

v. record keeping and reporting;

vi. social service; and,

vii. ancillary services.

b. The provider shall ensure that all staff members are properly certified or licensed as legally required and appropriately qualified for their position.

c. Personnel can work in more than one capacity as long as they meet all of the qualifications of the position and have met the trainings requirements.

d. In all instances, child placement staff shall include a person meeting the qualifications of a supervisor of placement services.

e. A staff person shall be delegated supervisory authority and responsibility in the short-term absence of the supervisor of placement services for illness, vacation, jury or military duty, professional seminars and meetings or in short-term periods when the position is vacant.

f. A person serving as acting supervisor shall meet the qualifications of supervisor of placement services. If there is no one on staff who meets the qualification, the provider may meet the minimum requirements for licensing by entering into an agreement with another provider for supervision or by entering into a contractual agreement with a private practitioner who meets the qualifications and is a board certified social worker.

3. Personnel Qualifications

a. Director. The director shall meet one of the following qualifications:

i. a bachelor's degree in a human service field or business administration, public administration, childcare administration plus three years experience relative to the population being served. One year of administrative experience in social services may be substituted for two years of regular experience. A master's degree plus two years of social service experience may be substituted for the three years of experience. An alternative may be a bachelor of social work (BSW) degree or professional equivalent with three years experience working with children, one year of which may be experience in administration; or

ii. a master's degree in health care administration or in a human service related field; or

iii. in lieu of a degree, six years of administrative experience in health or social services, or a combination of undergraduate education and experience for a total of six years.

4. Personnel Job Duties

a. The director shall be responsible for:

i. implementing and complying with policies and procedures adopted by the governing body;

ii. adhering to all federal and state laws and standards pertaining to the operation of the provider;

iii. address areas of non-compliance identified by annual survey and complaint investigations;

iv. directing the program;

v. representing the provider in the community;

vi. delegating appropriate responsibilities to other staff including the responsibility of being in charge of the provider during their absence;

vii. recruiting qualified staff and employing, supervising, evaluating, training and terminating employment of staff;

viii. providing leadership and carrying supervisory authority in relation to the provider;

ix. providing consultation to the governing body in carrying out their responsibilities, interpreting to them the needs of children, making needed policy revision recommendations and assisting them in periodic evaluation of the provider's services;

x. preparing the annual budget for the governing body's consideration, keeping the body informed of financial needs, and operating within the established budget;

- xi. supervising the provider's management including building, maintenance and purchasing;
- xii. participating with the governing body in interpreting the provider's need for financial support;
- xiii. establishing effective communication between staff and children and providing for their input into program planning and operating procedures;
- xiv. reporting injuries, deaths and critical incidents involving children to the appropriate authorities;
- xv. supervising the performance of all persons involved in any service delivery/direct care to children; and,
- xvi. completing an annual performance evaluation of all staff. For any person who interacts with children, a provider's performance evaluation procedures shall address the quality and quantity of their work.

5. Orientation

- a. The provider's orientation program shall include the following topics for all staff within 15 working days of the date of employment:
 - i. philosophy, organization, program, practices and goals of the provider;
 - ii. specific responsibilities of assigned job duties;
 - iii. administrative procedures;
 - iv. children's rights;
 - v. detecting and reporting suspected abuse and neglect;
 - vi. confidentiality; and
 - vii. reporting incidents.

b. All staff shall sign a statement of understanding certifying that such training has occurred.

c. A new employee shall not be given sole responsibility until training is completed.

6. Annual Training

- a. The provider shall ensure that all staff receives training on an annual basis in the following topics:
 - i. administrative procedures and programmatic goals;
 - ii. children's rights;
 - iii. detecting and reporting suspected abuse and neglect;
 - iv. confidentiality; and
 - v. reporting incidents.

b. All staff shall sign a statement of understanding certifying that such training has occurred.

c. The provider shall maintain sufficient information available to determine content of training. This information shall be available for review.

7. Volunteers

a. Providers who utilize volunteers to perform staff functions shall:

- i. have orientation, training, and be given a job description for the duties they are to perform;
- ii. have a criminal background check as required in R.S. 15:587.1 and R.S. 46:51.2;
- iii. have a completed state central registry disclosure form prepared by the department whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator as required in R.S. 46:1414.1.

B. Record Keeping

1. Administrative Records

a. The provider shall have an administrative file that shall contain, at a minimum, the following:

- i. a written program plan describing the services and programs offered by the provider;
- ii. organizational chart of the provider;
- iii. all leases, contracts and purchase-of-service agreements to which the provider is a party;
- iv. insurance policies. Every provider shall maintain in force at all times a comprehensive general liability insurance policy. This policy shall be in addition to any professional liability policies maintained by the provider and shall extend coverage to any staff member who provides transportation for any resident in the course and scope of his/her employment;
- v. all written agreements with appropriately qualified professionals, or a state provider, for required professional services or resources not available from employees of the provider; and,
- vi. written documentation of all residents' exits and entrances from provider property not covered under summary of attendance and leave. Documentation must include, at a minimum, date, time and destination.

2. Personnel Records

a. The provider shall have a personnel file for each employee that shall contain, at a minimum, the following:

- i. the application for employment, including the resume of education, training, and experience, if applicable;
- ii. a criminal background check in accordance with state law;
- iii. evidence of applicable professional or paraprofessional credentials/certifications according to state law;
- iv. documentation of any state or federally required medical examinations or testing;
- v. documentation of employee's orientation and annual training received;
- vi. employee's hire and termination dates;
- vii. documentation of current driver's license for operating provider or private vehicles in transporting residents;
- viii. annual performance evaluations to include his/her interaction with residents, family, and other providers;
- ix. personnel action, other appropriate materials, reports and notes relating to the individual's employment with the provider; and,
- x. annual state central registry disclosure form prepared by the department whether or not his/her name is currently recorded on the state central registry for a justified finding of abuse or neglect and he/she is the named perpetrator.

b. Staff shall have reasonable access to his/her file and shall be allowed to add any written statement he/she wishes to make to the file at any time.

c. The personnel file of staff shall be retained for at least three years after termination of employment.

3. Accounting Records

a. The provider shall establish a system of business management and staffing to assure maintenance of complete and accurate accounts, books and records.

b. The provider shall ensure that all entries in records are legible, signed by the person making the entry and accompanied by the date on which the entry was made.

c. All records shall be maintained in an accessible, standardized order and format, and shall be retained and disposed of according to state and federal law.

d. The provider shall have sufficient space, facilities and supplies for providing effective accounting record keeping services.

4. Confidentiality and Retention of Case Records

a. The provider shall have written policies and procedures for the maintenance, security and retention of records. The provider shall specify who shall supervise the maintenance of records, who shall have custody of records, and to whom records may be released and disposition or destruction of closed service record materials. Records shall be the property of the provider, and the provider, as custodian, shall secure records against loss, tampering or unauthorized use or access.

b. The provider shall maintain the confidentiality of all children's records to include all court related documents, as well as, educational and medical records. Every employee of the provider has the obligation to maintain the privacy of the child and his/her family and shall not disclose or knowingly permit the disclosure of any information concerning the child or his/her family, directly or indirectly, to other children in the provider or any other unauthorized person.

c. When the child is of majority age and not interdicted, a provider shall obtain the child's written, informed permission prior to releasing any information from which the child or his/her family might be identified, except for authorized state and federal agencies.

d. When the child is a minor or is interdicted, the provider shall obtain written, informed consent from the legal guardian(s) prior to releasing any information from which the child might be identified, except for accreditation teams and authorized state and federal agencies.

e. The provider shall, upon written authorization from the child or his/her legal guardian(s), make available information in the record to the child, his/her counsel or the child's legal guardian(s). If, in the professional judgment of the administration of the provider, it is felt that information contained in the record would be injurious to the health or welfare of the child, the provider may deny access to the record. In any such case, the provider shall prepare written reasons for denial to the person requesting the record and shall maintain detailed written reasons supporting the denial in the child's file.

f. The provider may use material from the child's records for teaching and research purposes, development of the governing body's understanding and knowledge of the provider's services, or similar educational purposes, provided names are deleted, other identifying information are disguised or deleted, and written authorization is obtained from the child or his/her legal guardian(s).

g. All records shall be retained and disposed of in accordance with state and federal laws. Any person who violates the requirement of confidentiality shall be fined not more than five hundred dollars or imprisoned for not more than ninety days or both.

h. The provider must maintain the original records in an accessible manner for a period of five years following the death or discharge of a child.

i. In the event of a change of ownership, the child records shall remain with the provider.

j. If the provider closes, the owner of the provider within the state of Louisiana shall store the child records for five years.

k. The provider is responsible for training all staff at least annually in confidentiality of information and records.

C. Incidents

1. Critical Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating and analyzing all critical incidents.

a. The provider shall report any of the following critical incidents to the Child Protection Unit located in the parish in which the provider is located. The Child Protection Unit shall be responsible for notifying the DCFS Licensing Section, when it is identified that a potential non-compliance of a licensing standard has occurred:

- i. abuse;
- ii. neglect;
- iii. injuries of unknown origin; or
- iv. death.

b. The provider shall report any of the following critical incidents to the DCFS Licensing Section:

- i. attempted suicide;
- ii. serious threat or injury to the child's health, safety or well-being, i.e. elopement or unexplained absence of a child;
- iii. injury with substantial bodily harm while in seclusion or during use of personal restraint; or
- iv. unplanned hospitalizations, emergency room visits, and walk-in or other outpatient emergency care visit.

c. The director or designee shall:

- i. immediately verbally notify the legal guardian of the incident;
- ii. immediately verbally notify the appropriate law enforcement authority in accordance with state law;
- iii. submit the mandated critical incident report form within 24 hours of the incident to the appropriate unit as identified above based on the type of critical incident;
- iv. submit a final written report of the incident, if indicated, to the appropriate unit identified above based on the type of critical incident as soon as possible but no later than five working days;
- v. submit a final written report of the incident to the legal guardian as soon as possible but no later than five working days; and
- vi. conduct an analysis of the incident and take appropriate corrective steps to prevent future incidents from occurring.
- vii. maintain copies of any written reports or notifications in the child's record.

2. Other Incidents. The provider shall have written policies and procedures for documenting, reporting, investigating and analyzing all documenting, reporting, investigating and analyzing all other accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a child or children.

a. The provider shall initiate a detailed report of any other unplanned event or series of unplanned events,

accidents, incidents and other situations or circumstances affecting the health, safety or well-being of a child or children excluding those identified in C.1.a. above within 24 hours of the incident. At a minimum, the incident report shall contain the following:

- i. date and time the incident occurred;
- ii. a brief description of the incident;
- iii. where the incident occurred;
- iv. any child or staff involved in the incident;
- v. immediate treatment provided, if any;
- vi. symptoms of pain and injury discussed with the physician;
- vii. signature of the staff completing the report;
- viii. name and address of witnesses;
- ix. date and time the legal guardian was notified;
- x. any follow-up required;
- xi. preventive actions to be taken in the future; and
- xii. any documentation of supervisory and administrative reviews.

b. A copy of all written reports shall be maintained in the child's record.

D. Abuse and Neglect

1. The provider shall have a written policy and procedure for detecting and reporting suspected abuse or neglect that:

- a. describes communication strategies used by the provider to maintain staff awareness of abuse prevention, current definitions of abuse and neglect, mandated reporting requirements to the child protection provider and applicable laws;
- b. ensures the child is protected from potential harassment during the investigation;
- c. addresses when an examination by a medical professional is indicated;
- d. ensures that any staff member who abuses or neglects a child will be disciplined;
- e. ensures the staff member involved in the incident does not work directly with the child involved in the allegation(s) until an internal investigation is conducted by the provider or the child protection unit makes an initial report;
- f. ensures the staff member that may have been involved in the incident is not involved in conducting the investigation;
- g. ensures that confidentiality of the incident is protected.

2. Any case of suspected child abuse or neglect shall be reported according to the guidelines outlined in the Children's Code Articles Ch.C. 609 and Ch.C. 610.

E. Children's Rights

1. Provider Responsibility

a. The provider shall have written policies and procedures that ensure each child's rights are guaranteed and protected.

b. None of the child's rights shall be infringed upon or restricted in any way unless such restriction is necessary to the resident's individual service plan. When individual rights restrictions are implemented, the provider shall clearly explain and document any restrictions or limitations on those rights, the reasons that make those restrictions medically necessary in the child's individual service plan and the extent and duration of those restrictions. The documentation shall

be signed by provider staff, the child and the child's legal guardian(s) or parent(s), if indicated. No service plan shall restrict the access of a child to legal counsel or restrict the access of state or local regulatory officials to a resident.

c. Children with disabilities have the rights guaranteed to them under the Americans with Disabilities Act (ADA), 42 U.S.C. §12101 et seq. and regulations promulgated pursuant to the ADA, 28 C.F.R. Parts 35 and 36 and 49 C.F.R. Part 37; §504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, and regulations promulgated pursuant thereto, including 45 C.F.R. Part 84. These include the right to receive services in the most integrated setting appropriate to the needs of the individual; to obtain reasonable modifications of practices, policies, and procedures where necessary (unless such modifications constitute a fundamental alteration of the provider's program or pose undue administrative burdens); to receive auxiliary aids and services to enable equally effective communication; to equivalent transportation services; and to physical access to a provider's facilities.

2. Privacy

a. A child has the right to personal privacy and confidentiality. Any records and other information about the child shall be kept confidential and released only with the child's or legal guardian's expressed written consent or as required by law.

b. A child shall not be photographed or recorded without the express written consent of the child and the child's legal guardian(s). All photographs and recordings shall be used in a manner that respects the dignity and confidentiality of the child.

c. A child shall not participate in research projects without the express written consent of the child and the child's legal guardian(s).

d. A child shall not participate in activities related to fundraising and publicity without the express written consent of the child and the child's legal guardian(s).

3. Contact with Family and Collaterals

a. A child has the right to consult and have visits with his/her family (including but not limited to his or her mother, father, grandparents, brothers, and sisters), legal guardian(s) and friends subject only to reasonable rules. The reasons for any special restrictions shall be recorded in the child's service plan and explained to the child and his or her family. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child's service plan. No service plan shall restrict home visits without approval from the legal guardian.

b. A child has the right to telephone communication. The provider shall allow a child to receive and place telephone calls in privacy subject only to reasonable rules and to any specific restrictions in the child's service plan. The service plan manager shall formally approve any restriction on telephone communication in a child's service plan. The service plan manager shall review the special restrictions every 30 days and, if restrictions are renewed, the reasons for renewal shall be recorded in the child's service plan. The cost for long distance calls shall not exceed the usual and customary charges of the local phone company provider. There shall be no restrictions on communication between a child and the child's legal counsel.

c. A child has the right to send and receive mail. The provider shall allow children to receive mail unopened, uncensored and unread by staff unless contraindicated by the child's service plan. The service plan manager shall review this restriction every 30 days. No service plan shall restrict the right to write letters in privacy and to send mail unopened, uncensored and unread by any other person. Correspondence from a child's legal counsel shall not be opened, read or otherwise interfered with for any reason. Children shall have access to all materials necessary for writing and sending letters and, when necessary, shall receive assistance.

d. A child has the right to consult freely and privately with legal counsel, as well as, the right to employ legal counsel of his/her choosing.

e. A child has the right to communicate freely and privately with state and local regulatory officials.

4. Safeguards

a. A child has the right to be free from mental, emotional, and physical abuse and neglect and be free from chemical or mechanical restraints. Any use of personal restraints shall be reported to the child's legal guardians(s).

b. A child has the right to live within the least restrictive environment possible in order to retain their individuality and personal freedom.

c. Children shall not be subjected to corporal punishment or cruel, severe, unusual, degrading or unnecessary punishment.

5. Civil Rights

a. A child's civil rights shall not be abridged or abrogated solely as a result of placement in the provider's program.

b. A child shall not be denied admission, segregated into programs or otherwise subjected to discrimination on the basis of race, color, religion, national origin, sexual orientation, physical limitations, political beliefs, or any other non-merit factor. Facilities must comply with the requirements of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq. (ADA).

6. Participation in Program Development.

a. A child has the right to be treated with dignity in the delivery of services.

b. A child has the right to receive preventive, routine and emergency health care according to individual need and that will promote his or her growth and development.

c. A child has the right to be involved, as appropriate to age, development and ability, in assessment and service planning.

d. A child has the right to consult with clergy and participate in religious services in accordance with his/her faith. The provider shall have a written policy of its religious orientation, particular religious practices that are observed and any religious restrictions on admission. This description shall be provided to the child and the child's legal guardian(s). When appropriate, the provider shall determine the wishes of the legal guardian(s) with regard to religious observance and make every effort to ensure that these wishes are carried out. The provider shall, whenever possible, arrange transportation and encourage participation by those children who desire to participate in religious activities in the community.

F. Prohibited Practices

1. The provider shall have written policies and procedures regarding its discipline and behavior management program. The provider shall ensure its policy:

a. is maintained in writing and current;

b. is available to the child and the child's parent or custodian;

c. includes:

i. the goal and purpose of the provider's discipline and behavior management program;

ii. approved methods of discipline and behavior management; and,

iii. a list of persons authorized to administer discipline and behavior management methods to children in foster care; and

iv. the provider's method of monitoring and documenting implementation of the policy.

2. The provider shall maintain a list of prohibited practices that shall include the following:

a. use of a chemical or mechanical restraint;

b. corporal punishment such as slapping, spanking, paddling or belting;

c. marching, standing or kneeling rigidly in one spot;

d. any kind of physical discomfort except as required for medical, dental or first aid procedures necessary to preserve the resident's life or health;

e. denial or deprivation of sleep or nutrition except under a physician's order;

f. denial of access to bathroom facilities;

g. verbal abuse, ridicule or humiliation, shaming or sarcasm;

h. withholding of a meal, except under a physician's order;

i. requiring a resident to remain silent for a long period of time;

j. denial of shelter, warmth, clothing or bedding;

k. assignment of harsh physical work;

l. punishing a group of residents for actions committed by one or a selected few;

m. withholding family visits;

n. extensive withholding of emotional response;

o. denial of school services and denial of therapeutic services; and

p. other impingements on the basic rights of children for care, protection, safety, and security.

3. The child, where appropriate, and the child's legal guardian(s) shall receive a list of the prohibited practices. There shall be documentation of acknowledgement of receipt of the list of prohibited practices by the child and, where appropriate, the child's legal guardian(s) in the child's record.

G. Grievance Process

1. The provider shall have a written grievance policy and procedure for the child designed to allow them to make complaints without fear of retaliation. The child shall be informed of the advocacy services available.

a. The provider shall make every effort to ensure that all child(ren) are aware of and understand the grievance procedure.

b. The child's records shall contain a record of any grievances and their resolutions.

H. Quality Improvement

1. The provider shall have a written policy and procedure for maintaining a quality improvement program to include:

- a. systematic data collection and analysis of identified areas that require improvement;
- b. objective measures of performance;
- c. periodic review of resident records;
- d. quarterly review of incidents to include documentation of the date, time and identification of residents and staff involved in each incident; and
- e. implementation of plans of action to improve in identified areas.

2. Documentation related to the quality improvement program shall be maintained for at least two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7313. Foster Care Services

A. Provider Responsibilities

1. Type of Services

a. The provider may provide any or all of the following types of foster care services in a certified foster home:

- i. basic foster care services;
- ii. specialized foster care services;
- iii. therapeutic foster care services; and
- iv. respite care services.

2. Number of Children

a. The foster home shall have no more than eight dependents including foster children and their own children and shall care for a maximum of six foster children at any given time with the exception of a sibling group, who may remain together.

b. A maximum of two children under two years of age can be placed in the same foster home at the same time, with the exception of a sibling group, who may remain together.

3. Background Checks

a. The provider shall perform a state and national criminal background check on the applicant(s) and any member of the applicant's household in accordance with the R.S. 46:51.2 for any crime enumerated under R.S. 15:587.1 and Public Law 105-89.

b. An inquiry of the state central registry for members of the household 18 years of age and older shall be conducted. No person who is recorded on the state central registry with a valid (justified) finding of abuse or neglect of a child can reside in the home. The parent(s) and all other members of the household, 18 years of age or older, shall sign a release for a clearance with the State Central Registry. If the applicant(s) or any other adult living in the home of such applicant resided in another state within the proceeding five years, the provider shall request and obtain information from that state's child abuse and neglect registry.

4. Personnel Qualifications

a. Supervisor. The supervisor shall meet the following qualifications:

- i. a master's degree from an accredited school of social work;
- ii. two years experience in child placement;

iii. in all instances, child placement staff shall include a person meeting the qualifications of a supervisor of placement services;

iv. a staff person shall be delegated supervisory authority and responsibility in the short-term absence of the supervisor of placement services for illness, vacation, jury or military duty, professional seminars and meetings or in short-term periods when the position is vacant; and

v. a person serving as acting supervisor shall meet the qualifications of supervisor of placement services. If there is no one on staff who meets the qualification, the agency may meet the minimum requirements for licensing by entering into an agreement with another CPA for supervision or by entering into a contractual agreement with a private practitioner who meets the qualifications and is a licensed clinical social worker.

b. Child Placement Worker. The Child Placement Worker (CPW) shall meet the following qualifications:

i. have a minimum of a bachelor's degree in social work or any bachelor's degree plus one year of social service experience;

ii. a child placement worker located in a branch office apart from the supervisor of placement services shall have a master's degree from an accredited school of social work;

iii. in providers where the child placement staff is comprised of one placement worker, this person shall meet the qualifications of the supervisor of placement services.

c. Child Placement Worker (CPW) Assistant. The CPW assistant shall:

i. be at least 18 years of age;

ii. have a high school diploma or equivalency; and

iii. have one year of experience providing basic child welfare support services to children.

5. Personnel Job Duties

a. The supervisor shall be responsible for:

i. supervising staff providing services in the provider program areas;

ii. guides employees in the assessment of services or placement needs of children; the development of psychosocial assessment of case goals/objectives and/or case plans for children and their families; and the implementation of the case plan;

iii. determines work assignments and periodically monitors workers' productivity and activity;

iv. may serve as a consultant to other supervisors or employees;

v. may design and deliver training curricula or on-the-job training opportunities;

vi. gathers and analyzes data in order to design and implement recruitment campaigns to recruit potential adoptive and foster family resources to meet the placement needs of children in provider custody; and

vii. reviews and approves foster home studies, certifications and placements.

b. The CPW shall be responsible for:

i. assessing, developing, and executing a plan to achieve permanence for the child including return to the family, adoptions, transfer of custody, independent living, or other alternative plans;

ii. providing services to a caseload of children removed from their homes by court order, voluntary surrender, or voluntary placement agreement and placed in a foster home or a more restrictive setting;

iii. overseeing the placement to ensure the child's well-being, assesses probability of return, and plan for the child's permanence;

iv. developing and implementing a recruitment plan for certifying perspective foster and adoptive families;

v. preparing and conducting extensive orientation and training for potential foster and adoptive homes;

vi. examining and evaluating information gathered about families, housing, and environment in relation to provider criteria and licensing regulation for certification of perspective adoptive and foster homes;

vii. complete home studies;

viii. upon completion of written home studies, recommend approval or denial of certification for perspective adoptive and foster homes based on a combined evaluation and assessment process;

ix. re-evaluating for continued annual re-certification for foster and adoptive homes. Develops and implements a corrective action plan to correct deficiencies; and

x. maintaining listing of all foster and adoptive homes in area and recommends appropriate resources to workers placing children.

c. The CPW assistant shall be responsible for:

i. assisting professional staff in providing services to the children;

ii. instructing children in the practical application of improved standards of housekeeping, shopping, personal hygiene, medical and childcare, and other necessary home management skills;

iii. lifting or assisting children into the transit with their personal belongings and any medically needed equipment such as a wheel chair, an oxygen tank, a walker, etc.;

iv. observing and reporting children's behavior to professional staff to aid in the assessment and treatment plan of the case;

v. monitoring family visitation between caretaker and child(ren) with parents, as required;

vi. preparing narrative reports and maintaining visitation log as required;

vii. scheduling and arranging child transportation for follow-up visits;

viii. effectively communicating with children to defuse potentially dangerous situations such as physical/verbal confrontations between children and/or towards provider staff;

ix. completing various forms and reports; and

x. may be responsible for vehicle maintenance and documentation of such.

6. Child's Record

a. The provider shall maintain a record for each child placed, which contain (if applicable):

i. identifying information including the name, address, sex, race, nationality, birth date and birth place of the child;

ii. the provider's written authorization to care for the child;

iii. a copy of the home study;

iv. the current name, address, telephone number and marital status of the parent(s) and/or custodian(s) of the child;

v. the name, address, and telephone number of siblings if placed elsewhere and significant relatives or others considered in the case plan;

vi. copies of legal documents verifying status of the child including birth certificate, court orders or dispositions, voluntary surrenders for adoption, final decree of adoption;

vii. the medical history, circumstances health record, and available psychological and psychiatric reports or specialist evaluations;

viii. the social assessment and background of the parent(s) and family;

ix. summary which reflects the dates of contact with the child, initial assessment and case plan, all subsequent assessments and case plans, content of the supervisory visits;

x. a record of the provider's contacts with the child's family, including copies of correspondence with other interested persons and organizations;

xi. home study summary and plan indicating the circumstances leading to the decision to place the child, the provider's involvement with the parent(s), including services offered, delivered, or rejected;

xii. educational information records, evaluations and reports;

xiii. summary of case reviews which reflect the contacts with and the status of all family members in relation to the case plan as well as the achievements or changes in the goals;

xiv. summary of any administrative or outside service reviews on the progress of each child toward goal determination;

xv. summary of the child's contacts with family members which reflect the quality of the relationships as well as the way the child is coping with them;

xvi. a record of the child's placements with names of care-givers, addresses, begin and end dates of care. Signed placement agreements shall be filed in the record;

xvii. chronological record, noting significant events and contacts with the child and documentation of supervisory visits;

xviii. documentation of compliance with the case plan;

xix. the basis for selection of the home or residential provider for the specific child; and

xx. summary of case disposition, date of discharge, name, address of person(s) or provider to whom child was discharged and the reason for discharge.

7. Parent(s) Record

a. The provider shall maintain a record for each child placed, which contain (if applicable):

i. identifying information for each parent including name, address, telephone number, birth date, race, religion, the family composition, and interested others;

ii. effort to maintain child in own home;

iii. reason for placement;

iv. the social history;

- v. the medical history, including any psychological or psychiatric reports and specialists reports;
- vi. strengths and needs of the family and the services required;
- vii. worker's assessment, home study, initial and subsequent case plans, including conditions for return of child;
- viii. verification of custody of child;
- ix. signed agreements between the provider and parent(s) or custodian (for voluntary placements);
- x. chronological record, noting significant events and dates of contact with parent(s) and progress toward goals;
- xi. written summary of visits between parent(s) and child;
- xii. case review reports;
- xiii. discharge summary.
- xiv. the application;
- xv. references from at least three sources;
- xvi. criminal record check reports;
- xvii. a summary of contacts from application until placement;
- xviii. correspondence;
- xix. copies of legal documents verifying marital status;
- xx. summary containing the placement decision, replacement and post-placement contacts with the family and the child adopted;
- xxi. a copy of the information given to the adoptive parent(s) concerning the child(ren) placed or to be placed with them; and
- xxii. disposition summary for certified homes at decertification stating the reason.

8. Staffing Requirements

- a. Supervisors of placement services shall be responsible for not more than six full time child placement workers and/or aides and volunteers.
- b. Child placement worker case loads shall be limited to allow for all required contracts with the parent(s), children, foster families, and collateral parties. The provider shall maintain a maximum average case load size of 25 active placement cases.

9. Interstate Compact on the Placement of Children

- a. The provider accepting any child who resides in another state shall show proof of compliance with the terms of the Interstate Compact on Juveniles, the Interstate Compact on the Placement of Children and the Interstate Compact on Mental Health. Proof of compliance shall include clearance letters from the compact officers of each state involved.
- b. The provider shall send written notice to the administrator of the Interstate Compact on the Placement of Children on forms provided by the department before placing into or receiving a child from another state. No interstate placement shall occur without prior approval from the compact administrator from the receiving state.
- c. The provider shall conduct or accept only a state approved home study for interstate foster home placements.
- d. The provider shall conduct or accept only a state approved home study for interstate adoptive placements.

- e. If a child makes a brief visit out of state, not accompanied by provider personnel, the provider shall obtain prior consent from designated department staff.
- f. A provider shall comply with subsection (a) of this section if a child placed with the provider visits or receives respite care in another state for a period to exceed:
 - i. 30 days; or
 - ii. the child's school vacation period.

B. Certification of a Foster Home

1. Recruitment of an Applicant

- a. The provider's staff shall recruit a prospective foster home and approve the applicant for participation as a foster home if the provider meets all of the required standards.
- b. The provider shall have a written plan for ongoing recruitment of foster homes which includes the methods of recruitment, resources to be used, time-related goals for applicant recruitment, designated staff, and funding to implement the plan.

2. Home Study

- a. The provider shall complete a home study on a foster home applicant(s) prior to placement of a child in the home.
- b. The applicant(s) shall be allowed the opportunity to review a copy of their home study whether the application was approved or denied for certification. Any quotations from reference letters or other third party letters or telephone reports from agencies or professionals shall be deleted. Identifying information regarding the child's biological family shall be removed, unless a release of information is obtained from the birth parent(s).

c. With written permission of the applicant(s), the provider may forward a copy of the home study to another child placement provider for placement consideration or re-application to another child placing provider.

d. The home study shall include verification of the following:

- i. marital status;
- ii. verification the applicant is legally married or single;
- iii. citizenship/age requirement; and
- iv. proof of the applicant's:

(a) identity, such as a federally or state-issued photo identification card;

(b) United States citizenship, such as a birth certificate, or legal alien status, such as a permanent child card, as described in 8 U.S.C. 1151 as evidence.

3. That they meet the following age requirements unless otherwise specified:

- a. at least 21 years of age; and
- b. less than 65 years of age.

4. If the foster parent(s) is a relative, the foster parent(s) shall be considered if:

- a. between 18 and 21 years of age or over 65 years of age; and
- b. is able to meet the needs of the child to be placed in the applicant's home;
- c. income;
- d. verification that the applicant has sufficient income, separate from foster care reimbursement, to meet the needs of the family;

- e. references;
- f. three personal references who are not related to the applicant and one reference who is related to the applicant but does not live in the home;
- g. health;
- h. a statement for each member of the applicant's household that shall be signed by a licensed physician or licensed health care professional verifying that the individual:
 - i. is free of a communicable or infectious disease; and
 - ii. has no illness or condition that would present a health, to include past and present mental health, or safety risk to a child placed in the applicant's home;
 - iii. is physically able to provide necessary care for a child;
- i. the home study shall also include:
 - i. at least two home consultation visits and a third visit which may be a home or office visit; separate face to face interviews with each age appropriate member of the household and an interview with an adult child of the applicant, who does not live in the applicant's home, regarding the applicant's parenting history;
 - ii. discussion of motivation or origin of interest in foster care; the child(ren) requested in regard to the number, age, sex, characteristics; or acceptability in regard to health or developmental conditions or other special needs;
 - iii. history of any previous application for adoption. The provider shall document the attempt to obtain a copy of any previous home study from the responsible provider. If an applicant was approved to foster or adopt a child by another provider or the department and the applicant's home was closed, verification of the closure and a statement to indicate whether the closure was at the request of the applicant or the provider;
 - iv. background information and social information of applicant(s) and all members of the household to include but not limited to:
 - (a). personality in general and in relation to being an adoptive family;
 - (b). family background, customs, relationship patterns, formative experiences with adoption, and (if immigrants) early adjustment in the new country;
 - (c). marriage(s), marital or non-marital relationship(s), nature, quality, and agreement on respective roles, how are mutual needs met and how would a new child affect the relationship;
 - (d). children in the family and family interaction patterns and relationships, where/how would a new child fit in and affect family relationships;
 - (e). hobbies, interests, social contacts, contacts with extended family, integration into/involvement in community, how will these be affected by the addition of a new child;
 - (f). discussion of past and present mental and physical health of all applicant and family members;
 - (g). discussion of religious faith, affiliation, practices, attitudes towards religion, openness to religion of others and how parent(s) view the role of religion in rearing children;
 - (h). an assessment of the attitude of each member of the applicant's household extended family and significant

- others involved with the family toward the placement of a child into the home;
 - (i). disciplinary beliefs and practices;
 - (j). plan for child care if parent(s) work outside of the home; special provisions for meeting needs of specific special needs placement;
 - (k). attitude and capacity for handling a foster care disruption if that should be necessary; and
 - (l). if a business open to the public adjoins the applicant's household, consideration of potential negative impacts on the child and family, including:
 - (i). hours of operation;
 - (ii). type of business; and
 - (iii). clientele.
- 5. Training the Foster Home Parent(s)
 - a. The foster parent(s) shall participate in training provided or approved by the agency to develop and enhance their skills.
 - b. The provider shall develop and provide orientation and preparation to a prospective foster parent, to include the following:
 - i. provider program description with mission statement;
 - ii. information about the rights and responsibilities of the home; and
 - iii. background information about the foster child and the child's family;
 - iv. an example of an actual experience from a foster parent that has fostered a child;
 - v. information regarding:
 - (a). the stages of grief;
 - (b). identification of the behavior linked to each stage of grief;
 - (c). the long-term effect of separation and loss on a child;
 - (d). permanency planning for a child, including independent living services;
 - (e). the importance of attachment on a child's growth and development and how a child may maintain or develop a healthy attachment;
 - (f). family functioning, values, and expectations of a foster home;
 - (g). cultural competency;
 - (h). how a child enters care and experiences foster care, and the importance of achieving permanency; and
 - (i). identification of changes that may occur in the home if a placement occurs, to include:
 - (i). family adjustment and disruption;
 - (ii). identity issues;
 - (iii). discipline issues and child behavior management; and
 - (iv). specific requirements and responsibilities of a foster parent.
 - c. The foster parent(s) shall annually participate in a minimum of 15 hours of approved training. The hours may be shared among the adult members of the family, however, each adult shall receive a minimum of five hours; and shall maintain a record of all preparation and training completed.
 - 6. Parent(s) Requirements
 - a. General Requirements
 - i. Foster parent(s) shall:

- (a). only accept children for family foster care only from a licensed CPA or the state agency;
- (b). not care for unrelated adults on a commercial basis nor accept children into the home for day care at the same time they are certified to provide family foster care;
- (c). not accept children beyond the maximum capacity allowable for a family foster home;
- (d). permit the provider to visit the home;
- (e). share with the provider information about the child placed by the provider;
- (f). notify the provider prior to:
 - (i). leaving the state with a child placed by the provider for more than two nights; or
 - (ii). allowing a child placed by the provider to be absent from the foster home for more than three days;
- (g). report, if applicable, within two business days to the provider if there is a:
 - (i). change in address;
 - (ii). change in the number of people living in the home;
 - (iii). insignificant change in circumstance in the foster home; or
 - (iv). failure of the foster child or foster parent to comply with the supervision plan;
- (h). cooperate with the provider regarding the following when the staff arranges between a child and the child's birth family:
 - (i). visits;
 - (ii). telephone calls;
 - (iii). mail; or
 - (iv). email;
- (i). surrender a child or children to the authorized representative of the provider or the state provider, which has custody of the child, upon request;
- (j). keep confidential all personal or protected health information as shared by the department or provider according to state law and 45 C.F.R. Parts 160 and 164, concerning a child placed in a home or the child's birth family;
- (k). support an assessment of the service needs, including respite care, and the development of a service plan of a child placed by the provider;
- (l). participate in a case planning conference concerning a child placed by the provider;
- (m). cooperate with the support and implementation of the permanency goal established for a child placed by the provider;
- (n). provide medical care to a child as needed, including:
 - (i). administration of medication to the child and daily documentation of the administration; and
 - (ii). annual physicals and examinations for the child;
- (o). comply with general supervision and direction of the provider concerning the care of the child placed by the provider.
- (p). be knowledgeable of disciplinary measures and shall:
 - (i). recognize, encourage, and regard acceptable behavior;

- (ii). teach by example and use fair and consistent rules with logical consequences;
 - (iii). use methods of discipline that are relevant to the behavior;
 - (iv). supervise with an attitude of understanding, firmness, and discipline;
 - (v). give clear directions and provide guidance consistent with the child's level of understanding;
 - (vi). redirect the child by stating alternatives when behavior is unacceptable;
 - (vii). express themselves so the child understands that the child's feelings are acceptable but certain actions or behavior are not;
 - (viii). help the child learn what conduct is acceptable in various situations;
 - (ix). encourage the child to control the child's own behavior, cooperate with others and solve problems by talking things out;
 - (x). communicate with the child by showing an attitude of affection and concern; and
 - (xi). encourage the child to consider others' feelings.
- b. Exterior Environment Requirements
- i. The foster home shall be reasonably safe, in good repair and comparable in appearance and maintenance to other family homes in the community.
 - ii. The home and the exterior around the home shall be free from objects, materials and conditions which constitute a danger to the children served.
 - iii. The home shall have a safe outdoor play area which children may use either on the property or within a reasonable distance of the property. Any play equipment on the property shall be safe, well constructed and suitable for the children served.
 - iv. Any swimming and wading pools areas shall be locked and be made inaccessible to children except when supervised.
- c. Interior Environment Requirements
- i. Foster parent(s) shall have the necessary equipment for the safe preparation, storage, serving and clean up of meals.
 - ii. Foster parent(s) shall maintain all cooking and refrigeration equipment in working and sanitary condition.
 - iii. The home shall have a comfortable dining area furnished with sufficient furniture so that all members of the household can eat together.
 - iv. The home shall have sufficient living or family room space comfortably furnished and accessible to all members of the family.
 - v. Sleeping arrangements in a foster home shall be subject to the prior approval of the placing agency.
 - vi. Foster parent(s) shall permit no more than four children to a bedroom.
 - vii. The home shall have sufficient bedroom space to allow at least 75 square feet for individual occupant of a bedroom and an additional 55 square feet for each additional occupant.
 - viii. Providers receiving federal funds may not use standards related to income, age, education, family structure and size or ownership of housing which exclude groups of prospective parents on the basis of race, color, or national

origin, where these standards are arbitrary or unnecessary or where less exclusionary standards are available.

ix. Foster parent(s) shall provide each child with his/her own bed and each infant with his/her own crib. The bed shall be no shorter than the child's height and no less than 30 inches wide. It shall have a clean, comfortable, non-toxic mattress with a water proof cover.

x. Foster parent(s) shall not permit children over the age of six years to share a bedroom with a person of the opposite sex.

xi. Children shall not share a bedroom with adults, except when the child needs close supervision due to illness or except at the discretion of the placing agency.

xii. Foster parent(s) shall provide a chest, dresser or other adequate storage space for a child's clothing and personal belongings in the child's bedroom and a designated space for hanging up clothes near the bedroom occupied by the child.

xiii. Bedrooms shall have windows which provide sufficient natural light and ventilation for the health of the children.

xiv. Foster parent(s) shall allow some scope in the decoration of sleeping areas for the personal tastes and expressions of the child.

xv. Foster parent(s) shall provide bed linen and sufficient blankets and pillows for all children.

xvi. The family foster home shall have a minimum of one flush toilet; one wash basin with running water, and one bath or shower with hot and cold water.

xvii. Foster parent(s) shall equip each bathroom with toilet paper, towels, soap and other items required for personal hygiene and grooming.

xviii. Allow each child sufficient privacy with the exclusion of security/video cameras from areas such as the child's bedroom and/or bathroom.

d. Safety Requirements

i. The home shall be well heated and well ventilated.

ii. The foster parent(s) shall:

(a). provide screens for windows and doors used for outside ventilation;

(b). have a telephone in the home;

(c). ensure the safe storage of drugs, poisons or other harmful materials;

(d). store alcoholic beverage out of reach of small children;

(e). take measures to keep the home and premises free of rodents and insects;

(f). restrict children's access to potentially dangerous animals. Pets shall have current immunizations;

(g). store unloaded firearms and ammunition in separate locked places, inaccessible to children; and

(h). have household first aid supplies for treating minor cuts, burns and other minor injuries.

e. Fire Safety Requirements

i. The home shall be free from fire hazards, such as faulty electric cords and appliances, or non-maintained fireplaces and chimneys.

ii. Foster parent(s) living in apartment buildings shall give evidence that the building has been approved for building and fire safety within the last two years.

iii. Family foster homes including mobile homes shall have two doors which provide unrestricted exits in case of fire.

iv. Foster parent(s) shall:

(a). equip the home with operating smoke alarms within 10 feet of each bedroom;

(b). place a portable chemical fire extinguisher in the cooking area of the home;

(c). establish an emergency evacuation plan and shall practice it at least quarterly with the children to make sure all children understand the procedures;

(d). store combustible items away from sources of heat;

(e). shield all home heating units and other hot surfaces against accidental contact; and

(f). maintain safe conditions with properly installed, maintained and operated solid fuel heating stoves, systems, and fireplaces.

f. Sanitation and Health Requirements

i. Foster parent(s) shall keep the home clean and free of hazards to the health and physical well being of the family.

ii. The home shall have a continuous supply of clean drinking water. If the water is not from a city water supply, the foster parent(s) shall have the water tested and approved by the local health authority.

iii. The milk served to children shall either be Grade A and pasteurized or from an approved source.

iv. All plumbing in the home shall be in working order.

v. The home shall have an adequate supply of hot water for bathing and dishwashing. Hot water accessible to children shall not exceed 120 degrees Fahrenheit at the outlet.

g. Daily Living Services Requirements

i. Provide structure and daily activities designed to promote the individual, social, intellectual, spiritual, and emotional development of the child(ren) in their home.

ii. Assist the foster child(ren) to develop skills and to perform tasks which will promote independence and the ability to care for themselves.

iii. Cooperate with the provider to help the foster child maintain an awareness of his past, a record of the present and a plan for the future.

iv. Ask foster children to assume work responsibilities reasonable for their age and ability and commensurate with those expected of their own children.

v. As appropriate to the child's age and abilities, make every effort to teach good habits of money management, budgeting and shopping.

vi. Through careful daily monitoring, make every effort to teach a child good habits of personal hygiene and grooming appropriate to the child's sex, age and culture.

h. Food and Nutrition Requirements

i. Provide at least three nutritionally balanced meals daily according to the child's service plan.

ii. Provide for any special dietary needs of the foster child placed in their home on the advice of a licensed physician or in accordance with the child's case plan.

iii. If applicable, the dietary laws of the child's religion shall be observed in the food provided to the child.

- i. Clothing Requirements
 - i. Provide each foster child with their own clean, well fitting, attractive, seasonal clothing appropriate to age, sex, individual needs and comparable to other household members and to the community standards.
 - ii. A child's clothing shall be his/her own, not required to be shared.
 - iii. A child's clothing shall go with the child when they leave.
 - iv. Only shoes in good repair and condition shall be provided for the child.
 - v. Allow the foster child(ren) to assist in the choosing of their own clothing whenever possible.
- j. Personal Belongings Requirements
 - i. Allow the child to bring, possess and acquire personal belongings subject only to reasonable household rules.
 - ii. Personal belongings shall be sent with the child when he/she leaves the home.
 - iii. Ensure that each child is provided with clean towels, washcloths, his/her own toothbrush, his/her own comb or hair brush and other toiletry items suitable to the child's age and sex.
- k. Money Requirements
 - i. Ensure that the child has the opportunity to have spending money in amounts appropriate to their age and abilities, either through a regular allowance, paid work, employment or money paid directly to the child from other sources.
 - ii. A child's money from any source shall be his/her own and may be subject to restrictions only according to his/her service plan.
 - iii. Children shall not be required to pay for any mandated foster home service, except according to their service plans.
 - iv. Children shall not be required to pay for necessary toiletry items.
 - v. As appropriate to the child's age and abilities, every effort shall be made to teach good habits of money management, budgeting and shopping.
- l. Transportation
 - i. The foster parent(s) shall have access to:
 - (a). reliable transportation;
 - (b). school;
 - (c). recreation;
 - (d). medical care; and
 - (e). community facilities.
 - ii. A foster parent(s) who drives shall:
 - (a). possess a valid driver's license;
 - (b). possess proof of liability insurance; and
 - (c). abide by passenger restraint laws.
 - (d). Support System
- m. Foster parent(s) shall have or develop an adequate support system for supervising and providing care for the child(ren) on an ongoing basis to allow foster parent(s) opportunities for conducting personal business and for enjoying occasional breaks from the responsibility of caring for the child(ren).
- n. Foster parent(s) shall provide one responsible adult (over age 18) for direct supervision of children or on call at all times.

- o. Any person given the responsibility for a child on a regular basis must be identified to and approved by the placing agency.
7. Additional Requirements for Specialized Foster Care Services
- a. A foster home providing specialized foster care services shall accommodate the needs of a child who is unable to live with the child's own family and who has one or both of the following:
 - i. an emotional or behavior problem which may include a Diagnostic and Statistical Manual (DSM) diagnosed mental illness, aggressive or destructive behavior, or multiple placement failures and whose needs prevent placement in a basic level foster home; and
 - ii. a medical or developmental problem or condition that requires more time consuming and specialized care with professional oversight based on the child's specific needs but whose needs prevent placement in a basic level foster home.
 - b. The foster parent(s) shall have the following educational requirements:
 - i. high school diploma or equivalent; and
 - ii. two years of experience in specialized fields or in parenting a child with special needs.
 - c. Specialized foster homes shall not exceed six dependents, including foster children. They shall care for no more than four specialized foster care children, unless an additional child is a sibling.
 - d. The provider shall provide a minimum of 30 hours of orientation and preparation for a prospective specialized foster care parent.
 - e. The child placement worker shall:
 - i. have the first face-to-face visit with the child and specialized foster care parent on the day of the child's placement or the following work day;
 - ii. have telephone contact twice a month with at least one of the specialized foster care parents of each child on the specialized child placement worker's caseload;
 - iii. visit the specialized foster care parent monthly in the foster home;
 - iv. on a monthly basis, visit the foster child face-to-face in the foster home without the foster parent being present;
 - v. carry a caseload of not more than 18 specialized foster care children, taking into account:
 - (a). required responsibilities other than the case management of a child in foster care;
 - (b). additional support, contact, and preparation needed by a specialized foster home, due to the extent of the needs of the child served; and
 - (c). the intensity of services provided to the child and the child's family;
 - vi. conduct a semi-annual case consultation, including the:
 - (a). foster home;
 - (b). child's placement worker;
 - (c). supervisor; and
 - (d). child and the child's family of origin, to the extent possible;
 - vii. identify the support needed by the foster family, including a plan for respite care; and

viii. document the semi-annual case consultation and revision to a child's service plan as determined by the case consultations.

f. The foster home parent(s) shall maintain certification in CPR and first aid.

g. The foster home parent(s) shall complete a minimum of 20 hours of annual training.

8. Additional Requirements for Therapeutic Foster Care Services

a. A foster home providing therapeutic foster care services shall accommodate the needs of a child who is unable to live with the child's own family and who has one or both of the following:

i. serious emotional or behavioral problems and meets one or more of the following criteria:

(a). Diagnostic and Statistical Manual (DSM) diagnosed mental illness, imminent release from a treatment provider, aggressive or destructive behavior, at risk of being placed in more restrictive settings, including institutionalization, or numerous placement failures;

(b). a medical or developmental problem or condition so serious that it requires extremely time consuming, specialized care and supervision from a trained person, and ongoing, frequent professional oversight, all of which would be a significant burden to a caregiver. These may include, but are not limited to:

(i). a chronic and progressive illness or medical condition;

(ii). the need for a special service or ongoing medical support; or

(iii). a health condition stable enough to be in a home setting only with monitoring by an attending:

[a]. health professional;

[b]. registered nurse; or

[c]. licensed practical nurse.

b. Therapeutic foster homes shall not exceed four dependents, including foster children. They shall care for no more than two therapeutic foster care children, unless an additional child is a sibling.

c. The foster parent(s) shall have the following educational requirements:

i. high school diploma or equivalent; and

ii. two years of college or formal education in human services, child development or nursing and two years work experience in specialized field; or

iii. four years of experience in specialized fields or in parenting a child with special needs.

d. The provider shall provide a minimum of 36 hours of orientation and preparation for a prospective therapeutic foster care parent.

e. The CPW shall:

i. have the first face-to-face visit with a child and therapeutic foster care parent on the day of the child's placement or the following work day;

ii. have another face-to-face visit with the therapeutic foster parent or child within 10 calendar days of the child's placement;

iii. have telephone contact, on a weekly basis with at least one of the specialized foster care parents of each child on the specialized child placement worker's caseload;

iv. visit a therapeutic foster care parent a minimum of two times a month with at least one visit being in the foster home;

v. visit the foster child face-to-face in the foster home without the foster parent being present a minimum of two times a month with at least one visit in the therapeutic foster care home and one visit outside the foster home;

vi. carry a caseload of not more than 12 therapeutic foster care children, taking into account:

(a). required responsibilities other than the case management of a child in foster care;

(b). additional support, contact, and preparation needed by a therapeutic foster care home, due to the extent of the needs of the child served; and

(c). the intensity of services provided to the child and the child's family;

vii. conduct a quarterly case consultation, including the:

(a). foster home;

(b). child's CPW;

(c). supervisor; and

(d). child and the child's family of origin, to the extent possible;

viii. identify the support needed by the foster family, including a plan for respite care; and

ix. recommend and prepare an aftercare plan for a child, prior to discharge from therapeutic foster care, to ensure a successful transition; and

x. document a quarterly case consultation and revision to a child's service plan as determined by the case consultations.

f. The foster home parent(s) shall maintain certification in CPR and first aid.

g. The foster home parent(s) shall complete a minimum of 24 hours of annual training.

h. If the child is medically-fragile, training on how to care for the specific needs of the child shall be conducted by a licensed health care professional.

i. If the child is medically-fragile, the foster home must be located within a:

i. one hour drive of a medical hospital with an emergency room; and

ii. thirty minute drive of a local medical facility.

9. Requirements for Respite Services

a. The provider shall develop written policies and procedures to address the respite care needs of a child or a foster parent.

b. Respite care shall not be used as a means of placement for a child.

c. A respite care provider shall:

i. be a certified foster home;

ii. receive from the provider or foster parent, preparation for placement of a child, including:

(a). pertinent information regarding the child's history; and

(b). information regarding the service plan of the child;

(c). provide adequate supervision in accordance with the child's service plan; and

(d). give relief to a foster parent caring for a child or provide for an adjustment period for a child.

10. Denial of a Foster Home Request

a. The applicant shall be notified, in writing within 30 days, if the request to become a foster home parent is not recommended if the applicant is unwilling to withdraw the request to become a foster home parent after receiving a recommendation to withdraw.

b. The provider shall enter a dispositional summary in the applicant(s) case record clearly indicating the reason for denial of the application for certification, the manner in which the decision was presented to the family and whether or not they agreed with the decision.

c. If the applicant disagrees with the department's recommendation to not accept the applicant as a foster home, department staff shall review the request to become a foster home parent and issue a final written determination regarding the department's recommendation.

11. Annual Re-evaluation of the Foster Home

a. The provider shall conduct a personal interview in the home.

b. The provider shall assess the following:

- i. any change in the home;
- ii. the ability of the home to meet the needs of a child placed in the home; and
- iii. the home's continued compliance with the required standards.

12. Decertification of a Foster Home

a. A home shall be decertified if:

- i. it is determined that the family does not meet the general requirements for a foster home;
- ii. a situation exists that is not in the best interest of a child;
- iii. sexual abuse or exploitation by the parent or by another resident of the home is substantiated;
- iv. substantiated child abuse or neglect by a resident of the household;
- v. a serious physical or mental illness develops that may impair or preclude adequate care of the child by the parent; or
- vi. a child has not been placed in the home within the preceding two year period; and
- vii. the foster home parent requests a voluntary decertification.

b. Upon voluntary request, the parent shall notify the provider, in writing, at least 30 days before the requested decertification date.

c. The provider shall make adequate preparation and arrangements for the care, custody and control of any children in the home.

d. A home may be decertified according to the terms of the contract between the provider and the home.

e. The provider shall confirm, in a written notice to the home parent, the decision to decertify a home. The notice shall be delivered within 30 calendar days of contact with a foster home parent.

f. The written notice for decertification of a home shall include:

- i. notice that the provider shall not place a child in the home;
- ii. the reason why the home is being decertified; and
- iii. effective date.

13. Reapplication for Certification

a. Persons who desire to re-certify their foster home must re-apply. To reapply, a former foster home parent shall:

- i. attend an informational meeting; and
- ii. submit the:
 - (a). names of references; and
 - (b). authorization for all required background

checks.

b. If the foster home has been decertified more than five years, a new home study must be completed.

c. If the home has been decertified five years or less and at the time of decertification the home was in good standing and the re-assessments were up-to-date; the home can be re-certified with an addendum to the home study.

d. If the re-assessments were not in compliance, a new home study must be completed.

e. If the home was decertified during an investigation or needing a corrective action plan, a new home study must be completed.

f. A reapplying former foster home parent shall reenroll and complete the required preparation, as specified in the standards, unless the former foster home parent:

- i. has previously completed preparation; and
- ii. is considered a placement resource for children.

C. Child Placement

1. Admission

a. The provider shall:

- i. place a child only in an approved foster home; and
- ii. keep a child who has been committed to the Department of Corrections, Office of Juvenile Justice for the commission of a sex crime in a separate foster home from a child committed to the department.

b. The provider shall select a foster home for a child based upon the individual needs of the child, including:

- i. the child's assessment;
 - ii. any information concerning the child's needs in placement; and
 - iii. measures to support the safety of the child.
- c. Generally, the level at which children are placed should represent:
- i. the level of supervision to be provided;
 - ii. the level of support services to be provided or available;
 - iii. the level of staff training required; and
 - iv. the level of restrictiveness of the placement to the child.

d. The child shall participate in the process and in the decision that placement is appropriate, to the extent that the child's age, maturity, adjustment, family relationships, and the circumstance necessitating placement justify the child's participation.

e. The provider shall document the placement in the foster home file.

2. The provider shall have a written agreement with the foster home stating the:

- a. responsibilities of the provider and the foster parent(s); and
- b. terms of each placement which include, but not limited to the following:
 - i. the child is being placed with the foster parent(s) temporarily;

- ii. the family agrees to work in a partnership with the agency to provide foster care services to children in state custody;
- iii. the foster parent(s) agrees to keep all personal information about the child or the child's family confidential and not share with reporters, relatives, television (media), or any organization;
- iv. the foster parent(s) meets the certification requirements for foster care;
- v. the foster parent(s) will be reimbursed each month by the agency a daily board rate;
- vi. the foster parent(s) agrees to cooperate with the agency/provider in making a planned move for the child if replacement should be necessary, except in emergency circumstances;
- vii. the foster parent(s) will report to the agency(provider) any changes in their circumstances that have an effect on the child or the foster care placement;
- viii. the foster parent(s) will not take the child out-of-state or authorize any special medical care or treatment for the child without the consent of the agency(provider); and
- ix. the agency (provider) will provide supportive services to the foster parent(s) to promote a healthy parent-child adjustment and bonding.

3. Service Plan

- a. The provider shall:
 - i. within 30 days of a child's placement, develop:
 - (a). a service plan based upon the individual needs of the child and, if appropriate, the child's family, which addresses the:
 - (i). visitation, health, and educational needs of the child;
 - (ii). child's permanency goals and related objectives;
 - (iii). methods for accomplishing each goal and objective; and
 - (iv). designation of an individual or individuals responsible for completion of each goal and objective; and
 - b. review a child's service plan on a semi-annual basis or more frequently as the child's needs or circumstances dictate; and
 - c. reassess and document semi-annually, in the child's service plan, placement and permanency goals, including independent living services, if indicated.

4. Supervision of the Child

- a. The provider shall establish policies and procedures for supervision of a foster home by a worker other than the child placement worker assigned to the foster home to:
 - i. include:
 - (a). frequency of an in-home visit with the foster parent;
 - (b). means of supervision;
 - (c). methods of supervision; and
 - (d). personnel conducting the supervision;
 - ii. ensure a foster child's placement stability and safety; and
 - iii. be individualized, as needed, for the child or the foster home.

b. The provider shall conduct face-to-face visits with the child as often as necessary to carry out the case plan, but not less than two visits during the first month of care and monthly visits thereafter and document in the case record.

c. The provider shall identify and make available necessary supports to a foster home, including:

- i. a plan for respite care; and
- ii. 24 hour crisis intervention.

d. The provider shall provide information to a foster parent regarding the behavior and development of the child placed by the provider.

e. The provider shall inform the foster parent of:

- i. inappropriate sexual acts or sexual behavior of the child as specifically known to the provider; and
- ii. any behaviors of the child that indicate a safety risk for the placement.

f. The provider shall document each effort to:

- i. protect the legal rights of the family and the child; and
- ii. maintain the bond between the child and the child's family, in accordance with the child's permanency plan.

g. The provider shall assure that the child shall have, for the child's exclusive use, clothing comparable in quality and variety to that worn by other children with whom the child may associate;

h. The provider shall be responsible for monitoring the child's school progress and attendance; and

i. The provider shall secure psychological and psychiatric services, vocational counseling, or other services if indicated by the child's needs.

5. Discharge from Care

a. The provider shall discharge the child from care only to the person, persons or agency having legal custody of him or on written authorization of these or the court.

b. The provider shall complete a discharge summary, to be put in the child's records, which should include:

- i. the name and address of the person, persons, or agency to whom the child was discharged;
- ii. the reason for discharge;
- iii. the date of discharge;
- iv. the date of entrance;
- v. case plan goals achieved while in care;
- vi. follow-up recommendations; and
- vii. person or agency responsible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE; Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section, LR 37:

§7315. Adoption Services

A. Provider Requirements

1. General Requirements

a. The provider shall assure that all expectant parent(s) considering adoption as a permanent plan are advised of the legal statutes relative to their particular situation. The provider should encourage the parent(s) to seek independent legal counsel if so desired.

b. The provider shall avoid the use of coercion in securing surrenders from parent(s). A surrender shall not be

executed any earlier than the third day after the birth or placement of the child.

c. The provider shall advise the parent(s) that a valid surrender for adoption to a child placing provider is final and irrevocable and makes the provider legally responsible for selecting the most appropriate permanent placement for the child. Any previous placement agreements or understandings between the provider and the parent(s) are considered preferences which are not legally binding in the absence of a court order and secondary to the child's right to a timely permanent placement.

d. The provider shall not bring pressure on parent(s) to resume parental responsibility after acceptance of the surrender. Where the child is not in a permanent placement and the parent(s) wish to resume parental responsibility, the provider may consider adoptive placement with the parent(s).

e. The provider shall discuss the potential children available for adoption with the prospective adoptive family in compliance with state laws and provider policies on confidentiality and ethical practices. The provider shall have at least one up-to-date appropriate state or Louisiana Adoption Resource Exchange Photo listing of children to show families.

f. The provider shall inform the prospective adoptive parent(s) of the Louisiana Adoption Resource Exchange, a resource within the department for assisting agencies in linking the waiting child(ren) available for adoption with the waiting prospective adoptive parent(s). If the prospective adoptive parent(s) are interested, the provider shall assist them with registration forms provided by the department.

g. The provider shall advise the adoptive parents of the current provisions of their appropriate state or the Louisiana Voluntary Registry within the department to facilitate reunions between adult adoptees and birth family members.

2. Background Checks

a. The provider shall perform a state and national criminal background check on the applicant(s) and any member of the applicant's household in accordance with the R.S. 46:51.2 for any crime enumerated under R.S. 15:587.1 and Public Law 105-89.

b. An inquiry of the State Central Registry for members of the household 18 years of age and older shall be conducted. No person who is recorded on the State Central Registry with a valid (justified) finding of abuse or neglect of a child can reside in the home. The parent(s) and all other members of the household, 18 years of age or older, shall sign a release for a clearance with the State Central Registry. If the applicant(s) or any other adult living in the home of such applicant resided in another state within the proceeding five years, the provider shall request and obtain information from that state's child abuse and neglect registry.

3. Interstate Placements

a. The provider shall send written notice to the administrator of the Interstate Compact for the placement of children on forms provided by the authorized agency before placing into or receiving a child from another state. No interstate placement shall occur without prior approval from the compact administrator from the receiving state.

4. Intercountry Adoptions

B. Definitions

Birth Certificate—the child's official birth certificate and, if the certificate is not in English, a certified translation of the certificate.

Child—a person under seventeen years of age and not emancipated by marriage.

Foreign Orphan—a foreign-born child who is under the age of sixteen at the time a visa petition is filed on his behalf and whose parents have both died or disappeared, or abandoned or deserted him, or who has become separated or lost from both parents; whose sole surviving parent is incapable of providing for the child's care and has in writing irrevocably released the child for emigration and adoption; or who is a child born outside of marriage whose father acknowledges paternity and signs a relinquishment along with the mother.

C. Persons who may petition for inter-country adoption:

1. A United States citizen and spouse jointly or an unmarried United States citizen at least twenty-five years of age may petition for inter-country adoption of a foreign orphan. At least one petitioner shall be a domiciliary of Louisiana. When one joint petitioner dies after the petition has been filed, the adoption proceedings may continue as though the survivor was a single original petitioner.

D. Placement Authority. No foreign orphan who is the subject of an inter-country adoption shall be placed in the home of the prospective adoptive parents prior to their obtaining a certification for adoption.

E. Birth Certificate Requirement

1. Prior to the initiation of any adoption, the petitioners shall obtain a certified copy of the child's birth certificate, and, if the certificate is not in English, a certified translation of the certificate, which shall be attached to the petition for adoption.

2. If a certified copy of the birth certificate and certified translation are not available, the court may make findings on the date, place of birth, and parentage of the adopted person in accordance with the provisions of R.S. 40:79(C)(2).

F. Record of Adoption Decree

1. A person born in a foreign country who is adopted in the state of Louisiana, but who is not a United States citizen, or who is a naturalized United States citizen, and a person born in a foreign country and adopted outside the United States by adoptive parents who are residents of the state of Louisiana at the time of the adoption, may obtain a new birth certificate according to the following conditions, limitations, and procedures:

a. where a certified copy of the original foreign birth certificate of the adopted person, and, if the certificate is not in English, a certified verbatim translation of the certificate are available, the state registrar, upon receipt of the certificate translation and a certified copy of the order or decree of adoption, shall prepare a birth certificate in the new name of the adopted person and shall seal and file the foreign certificate and order or decree of adoption;

b. where the certified copy of the original birth certificate of the adopted person and certified translation are not available, the court having jurisdiction of adoptions in the parish, upon evidence presented by the Department of Children and Family Services from information secured at

the port of entry or upon evidence from other reliable sources, may make findings on the date, place of birth, and parentage of the adopted person. Upon receipt of a certified copy of such findings of the court, together with a certified copy of the order or decree of adoption, the state registrar shall prepare a birth certificate in the new name of the adopted person and shall seal and file the certified copy of the findings of the court and the certified copy of the order or decree of adoption;

c. a birth certificate issued pursuant to the provisions of this Subsection shall show specifically the true or probable country, island, or continent of birth. Except as provided in the following Paragraph, the birth certificate shall be annotated with the provision "not proof of United States citizenship";

d. where a certified copy of a certificate of naturalization is received by the state registrar together with the documents required by this Subsection, the date and number of the certificate of naturalization shall be included in the birth certificate, and the birth certificate shall be accepted by all state agencies as evidence of United States citizenship.

G. Types of Adoption. There are two types of inter-country adoptions of foreign orphans in Louisiana:

1. recognition of a foreign decree of adoption;
2. adoption of a foreign orphan.

H. Services in inter-country placements shall be provided by the state or licensed CPA authorized by the department to provide child placement in foster care and adoption services in Louisiana and shall comply with applicable federal and state laws.

1. The provider shall include in its statement of purpose a description of any inter-country placement services provided by the provider which may include but not be limited to:

(a). provision of intake services to help the family determine if it can parent a child of another country and culture;

(b). facilitation between the family and the foreign placement entity in direct adoptions or between the family and another child placing provider;

(c). link families with regulatory authorities in the United States and/or foreign country;

(d). provision of a home study for family to the U.S. Citizenship and Naturalization Service (USCIS) with accompanying:

(i). placement recommendation;

(ii). certification that family has met the pre-adoptive requirements in the child's proposed state of residence;

(iii). signatures of the person completing the home study, the placement supervisor, and the provider administrator;

(iv). verification that the provider is licensed or authorized to operate in Louisiana;

(e). facilitate the provision of state-approved home studies for Louisiana families residing abroad through International Social Services to enable them to comply with the provisions of the Immigration and Naturalization Act;

(f). selection and preparation for the child(ren) to be placed and/or family;

(g). follow-up and supervision of the child's adoptive placement status;

(h). assistance to the family with legal finalization of the adoption in Louisiana to include:

(i). verification of documents attesting to the child's legal availability for adoption;

(ii). court reports to the department in connection with the petition to finalize the adoption in a Louisiana court;

(i). assistance to the family in obtaining a revised birth certificate for the child; and

(j). post adoption services;

i. the provider shall conduct or accept only a home study conducted in accordance with these regulations for inter-country adoptive placements;

ii. the provider working directly with foreign entities or with out-of-state licensed agencies to arrange for the placement of children shall establish working relationships and agreements in writing which address the service, legal, and financial responsibilities of the two parties;

iii. the following conditions shall be met by the authorized adoption service or person in another country before a child can be placed for adoption in Louisiana:

(a). the child shall be qualified for adoption and be in the permanent custody of an authorized provider, organization or person in the foreign country;

(b). a duly constituted governmental unit or judicial court of the child's country has authorized the provider, organization, or person to arrange the adoption, who shall observe the laws or customs of the foreign country;

(c). there shall be proper emigration and immigration permits; and

(d). there shall be social and medical history of the child, to the extent available;

iv. providers in Louisiana and those authorized agencies placing foreign born children in to Louisiana shall be subject to the proceeding rules. In addition, such providers shall:

(a). be responsible for making another adoptive plan if the placement disrupts prior to finalization of the adoption;

(b). provide foster care until other appropriate legal steps are complete for the child's permanent care if the adoption disrupts;

(c). arrange for needed medical care for a child if the adoptive parents decide not to keep the child;

(d). advise adoptive parents of the necessity to have the child naturalized as a separate action from the adoption, if applicable;

v. a provider working in conjunction with another out-of-state CPA to arrange for international child placement shall ensure that the other provider is licensed in its state;

vi. the provider shall ensure that all actions related to the international placement and adoption of children satisfy the laws and regulations of Louisiana and any other state in which it is authorized to operate, those of the foreign nation involved and the federal immigration laws;

vii. the provider providing international placement services shall provide written information to families that at a minimum:

- (a.) describes provider's services and programs;
 - (b.) defines the legal and financial responsibilities of the provider and the family;
 - (c.) defines its relationship with any other foreign or domestic child placing entity;
 - (d.) identifies direct and indirect costs associated with accomplishing the inter-country adoption;
- viii. the provider involved with assisting the family to arrange for the child's emigration, immigration or adoption shall:

(a.) ensure that all documents related to the child's legal status, emigration, social and medical status and immigration are valid and accurate;

(b.) ensure that documents required for the child's adoption or re-adoption in the United States comply with the laws and requirements for adoption in the state in which adoptive parents will file the adoption petition. When documents are not available or are in question the provider shall be responsible for helping the adoptive parents correct these circumstances;

(c.) ensure that families are aware of their responsibility to notify USCIS of changes in the child's residence after the child's adoption and prior to the child's naturalization;

ix. the provider shall send written notice to the department on plans to place a Louisiana child in another country or when approval is given to USCIS for a Louisiana family to adopt a foreign born child;

x. the provider which provides inter-country adoption services to the family shall:

(a.) notify USCIS and the department when the child's legal adoption has been finalized so files can be updated;

(b.) notify the USCIS and the department when the child's legal adoption has not been finalized within six months of the time provided by state law;

(c.) notify the USCIS and the department when custody and/or residence of the child changes prior to finalization of the adoption;

xi. the provider working with an out of state provider to place a foreign born child in Louisiana shall give written notice to the administrator of the Interstate Compact on the Placement of Children before placing a child into or receiving a child from another state. No placement shall occur without prior approval from the compact administrator of the receiving state. A child adopted through the court of jurisdiction in a foreign country or entering Louisiana directly from the foreign country for purposes of adoption are not subject to the Interstate Compact on the Placement of Children;

xii. the provider shall comply with all applicable provisions of the Intercountry Adoption Act, Public Law 106-279.

I. Personnel Qualifications

1. Supervisor. The supervisor shall meet one of the following qualifications:

- i. a master's degree from an accredited school of social work; and
- ii. two years experience in child placement;
- iii. in all instances, child placement staff shall include a person meeting the qualifications of a supervisor of placement services;

iv. a staff person shall be delegated supervisory authority and responsibility in the short-term absence of the supervisor of placement services for illness, vacation, jury or military duty, professional seminars and meetings or in short-term periods when the position is vacant;

v. a person serving as acting supervisor shall meet the qualifications of supervisor of placement services. If there is no one on staff who meets the qualification, the agency may meet the minimum requirements for licensing by entering into an agreement with another CPA for supervision or by entering into a contractual agreement with a private practitioner who meets the qualifications and is a Board Certified Social Worker.

J. Child Placement Worker. The child placement worker (CPW) shall meet the following qualifications:

1. have a minimum of a bachelor's degree in social work or any bachelor's degree plus one year of social service experience;

2. a child placement worker located in a branch office apart from the supervisor of placement services shall have a master's degree from an accredited school of social work;

3. in providers where the child placement staff is comprised of one placement worker, this person shall meet the qualifications of the supervisor of placement services.

K. Child Placement Worker (CPW) Assistant. The CPW assistant shall:

1. be at least 18 years of age;

2. have a high school diploma or equivalency; and

3. have one year of experience providing basic child welfare support services to children.

L. Personnel Job Duties

1. The supervisor shall be responsible for:

a. supervising staff providing services in the provider program areas;

b. guiding employees in the assessment of services or placement needs of children; the development of psychosocial assessment of case goals/objectives and/or case plans for children and their families; and the implementation of the case plan;

c. determining work assignments and periodically monitors workers' productivity and activity;

d. may serve as a consultant to other supervisors or employees;

e. may design and deliver training curricula or on-the-job training opportunities;

f. gathering and analyzing data in order to design and implement recruitment campaigns to recruit potential adoptive and foster family resources to meet the placement needs of children in provider custody;

g. reviewing and approving home studies, certifications and placements.

M. The CPW shall be responsible for:

1. assessing, developing, and executing a plan to achieve permanence for the child including return to the family, adoptions, transfer of custody, independent living, or other alternative plans;

2. providing services to a caseload of children removed from their homes by court order, voluntary surrender, or voluntary placement agreement and placed in a foster home or a more restrictive setting;

3. overseeing the placement to ensure the child's well-being;

4. probability of return, and plan for the child's permanence;

5. developing and implementing a recruitment plan for certifying perspective foster and adoptive families;

6. preparing and conducting extensive orientation and training for potential foster and adoptive homes;

7. examining and evaluating information gathered about families, housing, and environment in relation to provider criteria and licensing regulation for certification of perspective adoptive and foster homes;

8. upon completion of written home studies, recommending approval or denial of certification for perspective adoptive and foster homes based on a combined evaluation and assessment process;

9. re-evaluating for continued annual re-certification for foster and adoptive homes;

10. develops and implements a corrective action plan to correct deficiencies.

11. maintaining listing of all foster and adoptive homes in area and recommends appropriate resources to workers placing children.

N. The CPW assistant shall be responsible for:

1. assisting professional staff in providing services to the children;

2. instructing children in the practical application of improved standards of housekeeping, shopping, personal hygiene, medical and childcare, and other necessary home management skills;

3. lifting or assisting children into the transit with their personal belongings and any medically needed equipment such as a wheel chair, an oxygen tank, a walker, etc.;

4. observing and reporting children's behavior to professional staff to aid in the assessment and treatment plan of the case;

5. monitoring family visitation between caretaker and child(ren) with parents, as required;

6. preparing narrative reports and maintaining visitation log as required;

7. scheduling and arranging child transportation for follow-up visits;

8. effectively communicating with children to defuse potentially dangerous situations such as physical/verbal confrontations between children and/or towards provider staff;

9. completing various forms and reports;

10. may be responsible for vehicle maintenance and documentation of such.

O. Case Record

1. The provider shall maintain a record from the time of the application for services through the completed legal adoption and termination of provider services for:

a. a child accepted for care;

b. the child's family; and

c. an adoptive applicant.

2. The case record shall contain material on which the provider's decision may be based and shall include or preserve:

a. information and documents obtained as required by the court;

b. information about the child and the child's family;

c. a narrative or summary of the services provided with a copy of legal and other pertinent documents; and

d. information gathered during the intake process including the following:

i. a description of the situation that necessitated placement of the child away from the child's family, or surrender of parental rights;

ii. a certified copy of the order to surrender parental rights and committing the child to the provider for the purpose of adoption;

iii. verification of the child's birth record and the registration number;

iv. a copy of the child's medical record up to the time of adoption finalization;

v. a copy of the required home study with verification of all supporting documents;

vi. date of adoptive placement;

vii. a statement of the basis for the selection of this adoptive home for the child;

viii. a record of after-placement services with dates of:

(a). visits;

(b). contacts;

(c). observations;

(d). filing of petition;

(e). granting of judgments; and

(f). other significant court proceedings relative to the adoption;

(i). child's adoptive name; and

(ii). verification of preparation and orientation training.

3. The provider alone shall have full access to the adoptive parent(s) information.

4. Adoption case records shall be:

a. maintained indefinitely following final placement of a child; and

b. sealed and secured from unauthorized scrutiny in accordance with state law.

5. The provider shall submit microfilm/micro fished adoptive case records to the department, if:

a. the provider closes; and

b. no other operational governing entity exists.

P. Certification of an Adoptive Home

1. Recruitment of an Applicant

a. The provider's staff shall recruit a prospective adoptive home and approve the applicant for participation as an adoptive home if the provider meets all of the required standards.

b. The provider shall have a written plan for ongoing recruitment of adoptive homes which includes the methods of recruitment, resources to be used, time-related goals for applicant recruitment, designated staff, and funding to implement the plan. The provider shall engage in active recruitment of potential adoptive parents who reflect the racial and ethnic diversity of children needing placement.

c. The provider shall provide information to the prospective adoptive parent(s) about:

i. the adoption process;

ii. the provider's policies and practices, legal procedures and the approximate time the process will take;

iii. adoptive standards;

iv. types of children available;

v. the fees, structure, and the availability of a subsidy if applicable.

d. The provider shall provide services to adoptive applicants to assist them in making an informed decision about adoption. The home study should be an opportunity for applicant(s) and provider placement workers to participate in a joint, mutual assessment and evaluation of their potential for meeting the needs of the children available for adoption.

2. Home Study

a. The provider shall complete a home study on adoptive home applicant(s) prior to placement of a child in the home.

b. The applicant(s) shall be allowed the opportunity to review a copy of their home study whether the application was approved or denied for certification. Any quotations from reference letters or other third party letters or telephone reports from agencies or professionals shall be deleted. Identifying information regarding the child's biological family shall be removed, unless a release of information is obtained from the birth parent(s).

c. With written permission of the applicant(s), the provider may forward a copy of the home study to another child placement provider for placement consideration or re-application to another child placing provider.

d. The home study shall include verification of the following:

i. marital status:

(a). verification the applicant is legally married or single;

ii. citizenship/age requirement:

(a). proof of the applicant's:

(i). identity, such as a federally or state-issued photo identification card;

(ii). United States citizenship, such as a birth certificate, or legal alien status, such as a permanent child card, as described in 8 U.S.C. 1151 as evidence;

iii. be at least 18 years of age;

iv. income:

(a). verification that the applicant has sufficient income, separate from foster care reimbursement, to meet the needs of the family;

v. references:

(a). three personal references who are not related to the applicant and one reference who is related to the applicant but does not live in the home;

vi. health:

(a). a statement for each member of the applicant's household that shall be signed by a licensed physician or licensed health care professional verifying that the individual:

(i). is free of a communicable or infectious disease;

(ii). has no illness or condition that would present a health, to include past and present mental health, or safety risk to a child placed in the applicant's home; and

(iii). is physical able to provide necessary care for a child;

e. The study shall also include:

i. at least two home consultation visits and a third visit which may be a home or office visit;

ii.

separate face to face interviews with each age appropriate member of the household and an interview with an adult child of the applicant, who does not live in the applicant's home, regarding the applicant's parenting history;

iii. discussion of motivation or origin of interest in adoption care, the child(ren) requested in regard to the number, age, sex, characteristics or acceptable in regard to health or developmental conditions or other special needs;

iv. history of any previous application for adoption. The provider shall document the attempt to obtain a copy of any previous home study from the responsible provider. If an applicant was approved to foster or adopt a child by another provider or the department and the applicant's home was closed, verification of the closure and a statement to indicate whether the closure was at the request of the applicant or the provider;

v. background information and social information of applicant(s) and all members of the household to include but not limited to:

(a). personality in general and in relation to being an adoptive family;

(b). family background, customs, relationship patterns, formative experiences with adoption, and (if immigrants) early adjustment in the new country;

(c). marriage(s), marital or non-marital relationship(s), nature, quality, and agreement on respective roles, how are mutual needs met and how would a new child affect the relationship;

(d). children in the family and family interaction patterns and relationships, where/how would a new child fit in and affect family relationships;

(e). hobbies, interests, social contacts, contacts with extended family, integration into/involvement in community, how will these be affected by the addition of a new child;

vi. discussion of past and present mental and physical health of all applicants and family members.

vii. discussion of religious faith, affiliation, practices, attitudes towards religion, openness to religion of others and how parent(s) view the role of religion in rearing children;

viii. assessment of the attitude of each member of the applicant's household extended family and significant others involved with the family toward the placement of a child into the home;

ix. discussion of disciplinary beliefs and practices;

x. plan for child care if parent(s) work outside of the home; special provisions for meeting needs of specific special needs placement;

xi. attitude and capacity for handling an adoptive disruption if that should be necessary;

xii. attitudes and capacities to parent an adoptee, general attitude toward birth-parent(s) and the reason the child is in need of adoption; understanding and acceptance of the adoptee's separate background, heritage and identity, (if applicable) need for sibling and/or family contact; readiness and capacity to discuss adoption with the child and deal with adoption related issues that arise; adjustment of previously adopted children (if applicable);

xiii. for individuals or couples wishing to adopt whose good health may not continue throughout the

minority of the child or whose life expectancy may be shorter than the minority years of the child, there shall be established a plan for guardianship of the child in the event that incapacity or death precedes the child's reaching the age of majority;

xiv. if a business open to the public adjoins the applicant's household, consideration of potential negative impacts on the child and family, including:

- (a). hours of operation;
- (b). type of business; and
- (c). clientele.

Q. Training the Adoptive Parent(s)

1. The adoptive parent(s) shall participate in training provided or approved by the agency to develop and enhance their skills.

2. The provider shall develop and provide orientation and preparation to a prospective adoptive parent, to include the following:

- a. provider program description with mission statement;
- b. information about the rights and responsibilities of the home; and
- c. background information about the adoptive child and the child's family.
- d. an example of an actual experience from an adoptive parent that has adopted a child;
- e. information regarding:
 - i. the stages of grief;
 - ii. identification of the behavior linked to each stage of grief;
 - iii. the long-term effect of separation and loss on a child;
 - iv. permanency planning for a child, including independent living services;
 - v. the importance of attachment on a child's growth and development and how a child may maintain or develop a healthy attachment;
 - vi. family functioning, values, and expectations of a foster home;
 - vii. cultural competency;
 - viii. how a child enters care and experiences adoptive care, and the importance of achieving permanency;
 - ix. identification of changes that may occur in the home if a placement occurs, to include:
 - (a). family adjustment and disruption;
 - (b). identity issues; and
 - (c). discipline issues and child behavior management; and
 - (d). specific requirements and responsibilities of an adoptive parent.

3. Parent(s) Requirements

a. General Requirements

i. Adoptive parent(s) shall:

- (a). accept children for adoption only from a licensed CPA or the state agency;
- (b). not care for unrelated adults on a commercial basis nor accept children into the home for day care at the same time they are certified to provide adoptive care;
- (c). not accept children beyond the maximum capacity allowable for an adoptive home;
- (d). permit the provider to visit the home;

(e). share with the provider information about the child placed by the provider;

(f). notify the provider prior to:

(i). leaving the state with a child placed by the provider for more than two nights; or

(ii). allowing a child placed by the provider to be absent from the adoptive home for more than three days;

(g). report, if applicable, within two business days to the provider if there is a:

(i). change in address;

(ii). change in the number of people living in the home;

(iii). significant change in circumstance in the home; or

(iv). failure of the adoptive child or parent to comply with the supervision plan;

(h). cooperate with the provider regarding the following when the staff arranges between a child and the child's birth family:

(i). visits;

(ii). telephone calls;

(iii). mail; or

(iv). email;

(i). surrender a child or children to the authorized representative of the provider or the state provider, which has custody of the child, upon request;

(j). keep confidential all personal or protected health information as shared by the department or provider according to state law and 45 C.F.R. Parts 160 and 164, concerning a child placed in a home or the child's birth family;

(k). support an assessment of the service needs, including respite care, and the development of a service plan of a child placed by the provider;

(l). participate in a case planning conference concerning a child placed by the provider;

(m). cooperate with the support and implementation of the permanency goal established for a child placed by the provider;

(n). provide medical care to a child as needed, including:

(i). administration of medication to the child and daily documentation of the administration; and

(ii). annual physicals and examinations for the child;

(o). comply with general supervision and direction of the provider concerning the care of the child placed by the provider;

(p). for individuals or couples wishing to adopt whose good health may not continue throughout the minority of the child or whose life expectancy may be shorter than the minority years of the child, there shall be established a plan for guardianship of the child in the event that incapacity or death precedes the child's reaching the age of majority;

(q). be knowledgeable of disciplinary measures and shall:

(i). recognize, encourage, and regard acceptable behavior;

(ii). teach by example and use fair and consistent rules with logical consequences;

- (iii). use methods of discipline that are relevant to the behavior;
- (iv). supervise with an attitude of understanding, firmness, and discipline;
- (v). give clear directions and provide guidance consistent with the child's level of understanding;
- (vi). redirect the child by stating alternatives when behavior is unacceptable;
- (vii). express themselves so the child understands that the child's feelings are acceptable but certain actions or behavior are not;
- (viii). help the child learn what conduct is acceptable in various situations;
- (ix). encourage the child to control the child's own behavior, cooperate with others and solve problems by talking things out;
- (x). communicate with the child by showing an attitude of affection and concern; and
- (xi). encourage the child to consider others' feelings.

4. Exterior Environment Requirements

- a. The adoptive home shall be reasonably safe, in good repair and comparable in appearance and maintenance to other homes in the community.
- b. The home and the exterior around the home shall be free from objects, materials and conditions which constitute a danger to the children served.
- c. The home shall have a safe outdoor play area which children may use either on the property or within a reasonable distance of the property. Any play equipment on the property shall be safe, well constructed and suitable for the children served.
- d. Any swimming and wading pools areas shall be locked and be made inaccessible to children except when supervised.

5. Interior Environment Requirements

- a. Adoptive parent(s) shall have the necessary equipment for the safe preparation, storage, serving and clean up of meals.
- b. Adoptive parent(s) shall maintain all cooking and refrigeration equipment in working and sanitary condition.
- c. The home shall have a comfortable dining area furnished with sufficient furniture so that all members of the household can eat together.
- d. The home shall have sufficient living or family room space comfortably furnished and accessible to all members of the family.
- e. Sleeping arrangements in an adoptive home shall be subject to the prior approval of the placing agency.
- f. Adoptive parent(s) shall permit no more than four children to a bedroom.
- g. Providers receiving federal funds may not use standards related to income, age, education, family structure and size or ownership of housing which exclude groups of prospective parents on the basis of race, color, or national origin, where these standards are arbitrary or unnecessary or where less exclusionary standards are available.
- h. Adoptive parent(s) shall provide each child with his/her own bed and each infant with his/her own crib. The bed shall be no shorter than the child's height and no less than 30 inches wide. It shall have a clean, comfortable, non-toxic mattress with a water proof cover.

i. Adoptive parent(s) shall not permit children over the age of six years to share a bedroom with a person of the opposite sex unless the children are inclusive of the same sibling group.

j. Children shall not share a bedroom with adults, except when the child needs close supervision due to illness or except at the discretion of the placing agency.

k. Bedrooms shall have windows which provide sufficient natural light and ventilation for the health of the children.

l. Adoptive parent(s) shall provide bed linen and sufficient blankets and pillows for all children.

m. The home shall have a minimum of one flush toilet; one wash basin with running water, and one bath or shower with hot and cold water.

n. Adoptive parent(s) shall equip each bathroom with toilet paper, towels, soap and other items required for personal hygiene and grooming.

o. Adoptive parent(s) shall allow each child sufficient privacy with the exclusion of security/video cameras from areas such as the child's bedroom and/or bathroom.

6. Safety Requirements

- a. The home shall be well heated and well ventilated.
- b. The adoptive parent(s) shall:
 - i. provide screens for windows and doors used for outside ventilation;
 - ii. have a telephone in the home;
 - iii. ensure the safe storage of drugs, poisons or other harmful materials;
 - iv. store alcoholic beverage out of reach of small children;
 - v. take measures to keep the home and premises free of rodents and insects.
 - vi. restrict children's access to potentially dangerous animals. Pets shall have current immunizations;
 - vii. store unloaded firearms and ammunition in separate locked places, inaccessible to children;
 - viii. have household first aid supplies for treating minor cuts, burns and other minor injuries.

7. Fire Safety Requirements

- a. The home shall be free from fire hazards, such as faulty electric cords and appliances, or non-maintained fireplaces and chimneys.
- b. Adoptive parent(s) living in apartment buildings shall give evidence that the building has been approved for building and fire safety within the last two years.
- c. Adoptive homes including mobile homes shall have two doors which provide unrestricted exits in case of fire.
- d. The adoptive parent(s) shall:
 - i. equip the home with operating smoke alarms within 10 feet of each bedroom.
 - ii. place a portable chemical fire extinguisher in the cooking area of the home.
 - iii. establish an emergency evacuation plan and shall practice it at least quarterly with the children, if applicable, to make sure all children understand the procedures.
 - iv. store combustible items away from sources of heat.

v. shield all home heating units and other hot surfaces against accidental contact.

vi. maintain safe conditions with properly installed, maintained and operated solid fuel heating stoves, systems, and fireplaces.

8. Sanitation and Health Requirements

a. Adoptive parent(s) shall keep the home clean and free of hazards to the health and physical well being of the family.

b. The home shall have a continuous supply of clean drinking water. If the water is not from a city water supply, the adoptive parent(s) shall have the water tested and approved by the local health authority.

c. All plumbing in the home shall be in working order.

d. The home shall have an adequate supply of hot water for bathing and dishwashing. Hot water accessible to children shall not exceed 120 degrees Fahrenheit at the outlet.

9. Daily Living Services Requirements. The adoptive parent(s) shall:

a. provide structure and daily activities designed to promote the individual, social, intellectual, spiritual, and emotional development of the child(ren) in their home;

b. assist the adoptive child(ren) to develop skills and to perform tasks which will promote independence and the ability to care for themselves;

c. help the adoptive child maintain an awareness of his past, a record of the present, and a plan for the future;

d. ask adoptive children to assume work responsibilities reasonable for their age and ability and commensurate with those expected of their own children;

e. make every effort to teach good habits of money management, budgeting, and shopping as appropriate to the child's age and abilities;

f. make every effort to teach a child good habits of personal hygiene and grooming appropriate to the child's sex, age and culture through careful daily monitoring;

10. Food and Nutrition Requirements. The adoptive parent(s) shall:

a. provide at least three nutritionally balanced meals daily according to the child's service plan;

b. provide for any special dietary needs of the adoptive child placed in their home on the advice of a licensed physician or in accordance with the child's case plan.

11. Clothing Requirements. The adoptive parent(s) shall:

a. provide each adoptive child with their own clean, well fitting, attractive, seasonal clothing appropriate to age, sex, individual needs and comparable to other household members and to the community standards;

b. a child's clothing shall be his/her own, not be required to be shared;

c. a child's clothing shall go with the child when they leave;

d. only shoes in good repair and condition shall be provided for the child;

e. allow the foster child(ren) to assist in the choosing of their own clothing whenever possible.

12. Support System

a. The adoptive parent(s) shall have or develop an adequate support system for supervising and providing care for the child(ren) on an ongoing basis to allow the parent(s) opportunities for conducting personal business and for enjoying occasional breaks from the responsibility of caring for the child(ren).

b. The adoptive parent(s) shall provide one responsible adult (over age 18) for direct supervision of children or on call at all times.

c. Any person given the responsibility for a child on a regular basis must be identified to and approved by the placing agency.

R. Updating Home Study

1. For families who have had an adoptive placement and who wish to apply for adoption of another child, the original home study may be updated.

2. If more than a year has passed since the family was certified for adoption, the provider shall complete an update prior to placement of a child in the home including updated background checks.

3. Applications for a second child shall not precede the finalization of the adoption of any unrelated children placed previously.

S. Denial of an Adoption Home Request

1. The applicant shall be notified, in writing, within 30 days if the request to become an adoptive home parent is not recommended for one of the following reasons:

a. the applicant is unwilling to withdraw the request to become an adoption parent after receiving a recommendation to withdraw; or

b. the applicant desires to adopt, but is unwilling to adopt a child under the custodial control of the department.

2. The applicant shall enter a dispositional summary in the applicant(s) case record clearly indicating the reason for denial of the application for certification, the manner in which the decision was presented to the family and whether or not they agreed with the decision.

3. If the applicant disagrees with the department's recommendation to not accept the applicant as an adoption home, department staff shall review the request to become an adoption home parent and issue a final written determination regarding the department's recommendation.

T. Decertification of an Adoption Home.

1. A home shall be decertified if:

a. it is determined that the family does not meet the general requirements for an adoption home;

b. a situation exists that is not in the best interest of a child;

c. sexual abuse or exploitation by the parent or by another resident of the home is substantiated;

d. substantiated child abuse or neglect by a resident of the household occurs that is serious in nature or warrants removal of a child;

e. a serious physical or mental illness develops that may impair or preclude adequate care of the child by the parent; or

f. a child has not been placed in the home within the preceding two year period.

2. A home may be decertified according to the terms of the contract between the provider and the home.

3. If it is necessary to decertify a home, the reason shall be stated by the provider in a personal interview with the family.

4. The provider shall confirm, in a written notice to the home parent, the decision to decertify a home. The notice shall be delivered within 30 calendar days of the interview with a adoption home parent.

5. The written notice for decertification of a home shall include:

- a. notice that the provider shall not place a child in the home;
- b. the reason why the home is being decertified; and
- c. effective date.

U. Reapplication for Certification

1. Persons who desire to re-certify their adoption home must re-apply. To reapply, a former adoption home parent shall:

- a. attend an informational meeting; and
- b. submit the:
 - i. names of references; and
 - ii. authorization for criminal records background check.

2. If the adoption home hasn't been certified for more than five years, a new home study must be completed.

3. If the adoption home hasn't been certified for five years or less and at the time of the de-certification, the home was in good standing and the re-assessments were up-to-date, the home can be certified with an addendum and updated forms.

4. If the re-assessments were not in compliance, a home study must be completed.

5. If the home was de-certified during an investigation or needing a Corrective Action Plan, a home study must be completed.

V. Child Placement

1. Placement Authority

a. Prior to adoptive placement, the provider shall establish the availability of a child through the following procedures:

i. acceptance of legally executed voluntary surrender(s) from the parent(s);

ii. if the parent is surrendering the child, prior to the execution of the surrender, a surrendering parent shall participate in a minimum of two counseling sessions relative to the surrender;

iii. the provider shall execute an affidavit attesting that the surrendering parent attended a minimum of two sessions, and stating whether the surrendering parent appeared to understand the nature and consequences of his intended act. The affidavit of the counselor shall be attached to the act of surrender;

iv. if, in the opinion of the provider, there is any question concerning the parent's mental capacity to surrender, the basis for these concerns shall be stated in the affidavit. If indicated, the affidavit shall contain a specific recommendation for any further evaluation that may be needed to ascertain the parent's capacity.

v. if he is a major, any surrendering father of a child may waive the counseling. In this case, the provider shall execute an affidavit attesting to the father's waiver and that he appeared to understand the nature and consequences

of his intended act. The affidavit shall be attached to the act of surrender.

vi. court order(s) of abandonment against the parent(s);

vii. court ordered termination of parental rights against the parent(s); or

viii. documentation of death of parent(s);

ix. any combination of the above.

b. A child's biological parent shall not be induced to terminate parental rights by a promise of financial aid or other consideration.

c. If the court finds the adoptive home to be unsuitable and refuses to grant a judgment, the provider shall remove the child from the home.

2. Assessment of the Child for Placement

a. A child shall not be placed for adoption until the adoptive home has been certified.

b. The child shall participate in the placement process and in the decision that placement is appropriate, to the extent that the child's age, maturity, adjustment, family relationships, and the circumstance necessitating placement justify the child's participation.

c. The provider shall obtain the following, if applicable:

i. a developmental history of the adoptive child to include:

(a). birth and health history;

(b). early development;

(c). characteristic ways the child responds to people and situations;

(d). any deviation from the range of normal development;

ii. the experiences of the child prior to the decision to place the child for adoption;

iii. maternal attitude during pregnancy and early infancy;

iv. continuity of parental care and affection;

v. out-of-home placement history;

vi. separation experiences; and

vii. information about the mother, all fathers and family background:

(a). that may affect the child's normal development in order to determine the presence of a significant hereditary factor or pathology; and

(b). including an illness of the biological mother or father, siblings, grandparents, great-grandparents, or cousins;

viii. a social history of the biological or legal parent, to include:

(a). name;

(b). date of birth;

(c). nationality;

(d). education;

(e). religion or faith; and

(f). occupation;

(g). race;

(h). height;

(i). eye color;

(j). weight;

(k). complexion.

d. Information obtained from observation of the child by a:

- i. social services worker; or
- ii. foster parent; or
- iii. physician or other licensed health care professional;

e. Information from the mother, if possible, identifying the biological father, or legal father, if different from the biological father, for the purpose of determining the father's parental rights and hereditary rights. If either biological or legal parent is unavailable, unwilling, or unable to assist with the completion of necessary information, the provider shall document information, to the extent possible, from the existing case record.

3. Selection of a Home

a. The provider shall select an adoptive family for a child based on the assessment of the child's needs, as well as, an assessment of the prospective family's ability to meet those needs.

b. The provider may assess a child's racial, cultural ethnic and religious heritage and preserve them to the extent possible without jeopardizing the child's right to care and a permanent placement.

c. Selection of a family shall be based on three broad criteria:

- i. the best interest of the child is the primary consideration;
- ii. the existence of psychological parent-child bonds between the child available for adoption and significant adults in the child's life;
- iii. the ability of the family to meet the needs of the child.

d. The following factors regarding selection of a family shall be carefully considered:

i. placement of siblings as a family group is usually the preferred placement choice unless contraindicated by:

- (a). assessment of the nature of sibling relationships;
- (b). the likelihood that placement would be unduly delayed by waiting for a family who will accept all of the children in a sibling group;

(c). the existence of significant affectionate attachment between a child and foster parent(s) who wish to adopt only the member of the sibling group already placed in the home. The provider may agree to this when an assessment indicates that the child's psychological bond to the foster parent(s) is so strong that it is more important to the child than the sibling relationship(s). In this situation an assessment must be made of the foster parent(s) willingness to maintain sibling contact after finalization of the adoption;

ii. the prospective family's willingness and ability to provide for the medical, educational, and psychological services identified as being needed by the child;

iii. the family's ability to accept the child's background and his mental, physical and psychological imitations/strengths;

iv. the probable impact of such factors such as life style, expectations, culture and perception of family life on the ability of the family and the child to bond to each other.

e. Adoption of a child by foster parent(s) shall be considered when:

- i. the foster parent(s) are interested in adopting the child;

ii. an assessment indicates that foster parent adoption is the most desirable permanent plan for the child;

iii. the child has lived with the foster family for a period of time and' the child and family have formed affectionate and healthy ties;

iv. removal and placement would be likely to cause lasting emotional damage to the child;

v. foster parent(s) meet certification standards for adoptive homes.

f. Adoption by a relative(s) shall be considered when:

i. the relative(s) is interested in adopting the child;

ii. an assessment indicates that this plan is in the best interest of the child;

iii. the child and relative(s) have formed affectionate and healthy ties;

iv. the relative(s) meets certification standards for adoptive homes.

g. Birthparent(s) may be considered for permanent placement of the child when:

i. the birthparent(s) is interested in adopting the child;

ii. an assessment indicates that this plan is in the best interest of the child;

iii. the child and birthparent(s) have the capacity to form an affectionate and healthy parent-child relationship;

iv. the parent(s) meets the certification standards for adoptive homes. Waivers may be considered for certification criteria where in the best interest of the child.

h. The provider having legal custody of the child may select an adoptive family for placement of the children if legal availability has not been established under the following conditions.

i. The provider has reasonable assurance that the child's availability will be established and legal procedures have been initiated or made a part of the case plan, pending implementation.

ii. Professional evaluation indicates that the establishment of a parent child bond at the earliest possible age is in the best interest of the child.

iii. The adoptive family meets the requirements for certification as a family foster home and has been certified as such prior to placement.

iv. The foster/adoptive family has been advised of the legal risks involved and is willing to enter into this case plan under a written family foster agreement stipulating the special provisions in §7313.U.3.

i. The provider shall not place a second child in a home for adoption until a previously placed child's adoption has been finalized except where the second child is a sibling to the first child and the placement is in the best interest of both children.

4. Placement Agreement with Adoptive Parent(s)

a. The provider shall have a signed agreement with each adoptive parent which includes the following.

i. The child's availability for adoption has been established.

ii. The child is being placed with the adoptive parent(s) for purposes of adoption.

iii. The adoptive parent(s) meets the certification requirements for adoption.

iv. The child remains in the custody of the provider until the adoption is finalized.

v. The family assumes financial responsibility for the child except in special needs placements approved by the department for an adoption subsidy or in accordance with special provisions for financial responsibility as included in the agreement.

vi. The number of supervisory visits in the first six months of placement to assess the progress of the placement.

vii. The provider and family agree to finalize the adoption after six months barring unforeseen circumstance that warrant removal of the child or to extend the placement agreement for another time-limited period not to exceed 18 months in all.

viii. The family agrees to cooperate with the provider in making a planned move for the child if replacement should be necessary except in emergency circumstances.

ix. The family will not petition the court for adoption until the provider has given written consent.

x. The family will report to the provider any changes in their circumstances that have an effect on the child or the adoption.

xi. The family will not take the child out-of-state or authorize any special medical care or treatment for the child without the consent of the provider.

xii. The provider will provide supportive services to the family to promote a healthy parent-child adjustment and bonding.

5. Preparation of the Prospective Adoptive Parent

a. The provider shall prepare the prospective adoptive family for the placement of the particular child(ren).

b. Preparation shall include:

i. visitation with the child in accordance with the child's age, level of understanding and preparation needs;

ii. thorough discussion and agreement on any special provisions of placement.

c. During preparation, the provider shall discuss the child's readiness to accept the selected placement with the child, in accordance with the child's age and ability to understand.

6. Supervision of the Child

a. The provider placing a child shall remain responsible for the child until a final decree has been granted.

b. The child and family shall be seen within three weeks of placement and once every two month period thereafter and a visit within 30 days prior to the final decree.

c. At least two of the supervisory visits shall be in the adoptive home and shall include both adoptive parents (if applicable) and all other members of the household.

d. Observations made during the visits shall be used in making recommendations for finalization of the adoption or to assist the family if problems arise that cannot be resolved to the satisfaction of the family and provider. The provider shall assist the family directly and/or refer the family to a provisional resource outside of provider to address the problem(s).

e. In special needs placements, more supervisory visits should be made, at least one each two month period to provide information, assistance and support to the family.

f. Written reports of the supervisory visits shall be dated, sent to the department as part of the confidential report and placed in the child's record and adoptive parent(s) record.

g. The provider shall be available to give the child and adoptive parent(s) assistance, consultation and emotional support with situations and problems encountered in permanent placement.

h. The provider shall ensure continuation of case management, visits, and telephone contacts based upon the needs of the child until the adoption is legally granted.

i. The provider shall be made aware of any change in the adoptive home including health, education, or behavior.

j. The provider shall be responsible for assisting adoptive parents to finalize the adoption or in cases where the adoption cannot be finalized, to develop an alternative permanent plan and placement for the child.

W. Adoption Petition Process

1. The provider shall give written consent to the family for adoption at the end of six months or one year, whichever is applicable, of placement if the family wants finalization and any problems that have arisen during the placement are in a satisfactory stage of resolution.

2. The provider shall submit all documents establishing availability of the child (TPR, surrender or death certificate) and the child's certified birth certificate to the court when filing the adoption petition with the court.

3. Upon notification by the court of the filed petition, the department shall request from the adoption agent, in writing, any required information that must be part of the confidential report and the date the information is to be submitted. If the child was born in this state, the adoption agent shall also submit a completed Adoption Report to the Clerk of Court office.

4. The provider shall submit the requested information to the department by the date specified in the notification correspondence.

5. Upon receipt of the required information, the department will review it for accuracy and thoroughness. If any required information has not been submitted, the department will notify the provider.

6. Once all of the required information has been received and reviewed by the department, the provider shall be notified, in writing, that the report has been submitted to the court.

7. If all of the required information is not provided, the report submitted to the court will reflect what information is missing that was not provided by the adoption agent.

8. When filing a petition for the adoption of a foreign orphan, the petition shall be accompanied by a certification for adoption, a certified copy of the Immigration and Naturalization Service documentation of orphan status, the original or a certified copy of a valid foreign custody decree, together with a notarized translation, and the original or certified copy of a valid birth certificate, together with a notarized translation, and an affidavit of fees and expenses.

9. When filing a petition for recognition of a foreign decree of adoption, the petition shall be accompanied by a certification for adoption, a certified copy of the Immigration and Naturalization Service documentation of

orphan status, documentary proof of citizenship status, the original or a certified copy of a valid foreign custody decree, together with a notarized translation, and the original or certified copy of a valid birth certificate, together with a notarized translation, and an affidavit of fees and expenses.

X. Adoption Disruption

1. When it has been identified that there is an adoption disruption, and except in emergency situations, the provider shall assist the adoptive family and child to plan an adoption disruption and replacement of the child in a manner least detrimental to the child and family. After all available resources are used and the family is still thinking about discontinuing the placement, the provider shall hold a planning conference to review the situation. The planning conference shall be attended by the adoptive parents, the child (if and when in the best interest of the child), the placement worker, the placement supervisor and (if applicable) the previous foster care worker/custodian. The planning conference should cover the following:

- a. problems in the placement;
- b. what resources have been used;
- c. what other resources may be helpful;
- d. the pros and cons of continuing the placement;
- e. deciding whether to disrupt the placement or maintain the placement;
- f. if maintaining the placement is the plan, identifying additional services to be used;
- g. if disruption is the plan, discussing the placement alternatives for the child;
- h. planning how the disruption will occur.

2. The provider shall assist the family in giving the child, of sufficient age of understanding, a reason for the disruption. Where this is not possible, the provider shall inform the child.

3. The provider shall provide services to families who suffer an adoption disruption to deal with their grief and decide if another adoptive placement is an appropriate plan.

Y. Final Decree

1. When a final decree has been rendered by the court, the provider shall review the final decree document for accuracy and ensure that the document has been filed with the applicable Clerk of Court.

2. If the child was born in this state, the provider shall submit the required fee for a revised birth certificate, along with a completed Certificate of Live Birth form PHS 19 and proof of citizenship, if applicable, to the department within 15 working days of the adoption finalization.

3. If the child was born in another state, the adoption agent shall submit a request to the agency responsible for the maintenance of vital records from the state in which the child was born in order to revise the child's birth certificate and ensure that the adoptive family receives a copy of the revised birth certificate.

4. In an inter-country adoption, the court shall issue a judgment recognizing the foreign adoption and rendering a final decree of adoption upon finding that:

- a. at least one of the adopting parents is a domiciliary of the state of Louisiana;
- b. the original or a certified copy of the foreign adoption decree, together with a notarized transcript, has been filed and is presumed to have been granted in accordance with the law of the foreign country;

c. the child has qualified as a foreign orphan and is in the United States in accordance with applicable Immigration and Naturalization Service regulations;

d. the child is either a permanent resident or a naturalized citizen of the United States;

e. the petitioners have the ability to care for, maintain, and educate the child.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section LR 37:

§7317. Transitional Placing Program

A. General Requirements

1. Program Description

a. A provider shall have a written program description describing:

- i. the overall philosophy and approach to independent living;
- ii. the long-term and short-term goals;
- iii. the types of youth best served;
- iv. the provider's approach to service planning;
- v. ongoing programs available to the youth during placements; and
- vi. any living arrangements provided.

b. The provider must include a written description of direct services, support services, and services to be arranged to achieve the goals of the transitional placing program.

2. Direct services shall include, but are not limited to, the following:

a. services related to education and vocational training e.g., career planning; preparation for the GED or higher education; job readiness; job search assistance; job placement; job follow-up activities; vocational training; tutoring and other remedial education;

b. programs and services in basic independent living skills e.g., money management; home management (housekeeping, etc.); consumer skills; identifying community resources; time management; communication skills; use of transportation; physical and mental health care; locating safe and stable housing; problem solving/decision making; sex education; menu planning and nutrition; cooking;

c. individual and/or group counseling as well as workshops and conferences to promote self-esteem; self confidence; development of interpersonal and social skills; preparation for transition to independence and termination of services; after care.

3. Support services shall include, but not be limited to, the following:

- a. vocational assessment or training;
- b. GED classes;
- c. preparation for college entrance exams;
- d. driver's education, if appropriate;
- e. counseling.

4. Number of Youth

a. The provider shall ensure that no more than three youth are placed in an apartment.

b. The provider who utilizes communal living arrangements (home situation) housing for four or more must obtain fire and health approval.

c. The provider's arrangements for selecting youth and youth groups for a specific living situation shall make allowance for the needs of each youth for reasonable privacy and shall not conflict with the program plan of any youth of the living situation or with the overall philosophy of the provider.

d. No youth shall be placed together in a living situation except by mutual agreement between the youth. Signed agreements shall be maintained in each record.

5. Personnel Qualifications

a. Child Placement Worker. The Child Placement Worker (CPW) shall meet the following qualifications:

i. have a minimum of a bachelor's degree in social work or any bachelor's degree plus one year of social service experience;

ii. a child placement worker located in a branch office apart from the supervisor of placement services shall have a master's degree from an accredited school of social work;

iii. in providers where the child placement staff is comprised of one placement worker, this person shall meet the qualifications of the supervisor of placement services.

b. Child Placement Worker (CPW) Assistant. The CPW assistant shall:

i. be at least 18 years of age;

ii. have a high school diploma or equivalency;

and

iii. have one year of experience providing basic child welfare support services to youth.

6. Personnel Job Duties

a. The CPW shall be responsible for:

i. assessing, developing, and executing a plan to achieve permanence for the youth including return to the family, adoptions, transfer of custody, independent living, or other alternative plans;

ii. providing services to a caseload of youth removed from their homes by court order, voluntary surrender, or voluntary placement agreement and placed in a foster home or a more restrictive setting;

iii. overseeing the placement to ensure the youth's well-being. Assesses probability of return and plan for the youth's permanency;

iv. developing and implementing a recruitment plan for certifying perspective foster and adoptive families;

v. preparing and conducting extensive orientation and training for potential foster and adoptive homes;

vi. examining and evaluating information gathered about families, housing, and environment in relation to provider criteria and licensing regulation for certification of perspective adoptive and foster homes;

vii. upon completion of written home studies, recommending approval or denial of certification for perspective adoptive and foster homes based on a combined evaluation and assessment process;

viii. re-evaluating for continued annual re-certification for foster and adoptive homes. Develops and implements a corrective action plan to correct deficiencies;

ix. maintaining listing of all foster and adoptive homes in area and recommends appropriate resources to workers placing youth.

b. The CPW assistant shall be responsible for:

i. assisting professional staff in providing services to the youth;

ii. instructing youth in the practical application of improved standards of housekeeping, shopping, personal hygiene, medical and childcare, and other necessary home management skills;

iii. lifting or assisting youth into the transit with their personal belongings and any medically needed equipment such as a wheel chair, an oxygen tank, a walker, etc.;

iv. observing and reporting youth's behavior to professional staff to aid in the assessment and treatment plan of the case;

v. monitoring family visitation between caretaker and youth with parents, as required;

vi. preparing narrative reports and maintaining visitation log as required;

vii. scheduling and arranging youth transportation for follow-up visits;

viii. effectively communicating with youth to defuse potentially dangerous situations such as physical/verbal confrontations between youth and/or towards provider staff;

ix. completing various forms and reports.

x. may be responsible for vehicle maintenance and documentation of such.

7. Advisory Board

a. The provider shall develop written procedures for a Youth Advisory Board consisting of youth representatives receiving services to provide feedback relative to program policies, practices, and services.

i. The Youth Advisory Committee shall be allowed to meet at least monthly.

ii. The provider shall maintain documented minutes of the Youth Advisory Board and resolutions of problems addressed.

8. Money

a. A provider shall have a written policy describing how they will manage the youth's money.

b. A provider shall only accept a youth's money when such management is mandated by the youth's service plan. The provider shall manage and account for money of youth who are minors.

c. Providers who manage youth's money shall maintain in the youth's file a complete record accounting for his/her money.

i. The provider shall maintain a current balance sheet containing all financial transactions to include the signature of staff and the youth for each transaction.

ii. The money shall be kept in an individual account in the name of the youth.

d. Youth's monetary restitution for damages shall only occur when there is clear evidence of individual responsibility for the damages and the service team approves the restitution. The youth and his/her legal guardian(s) shall be notified in writing within 24 hours of any claim for restitution and shall be provided with specific details of the damages, how, when and where the damages occurred, and the amount of damages claimed. If the amount is unknown, an estimate of the damages shall be provided and an exact figure provided within 30 days. The resident and his/her legal guardian(s) shall be given a reasonable opportunity to

respond to any claim for damages. If the provider receives reimbursement for damages either through insurance or other sources, the resident shall not be responsible for restitution.

9. Food Service

a. When meals are prepared in a central kitchen, the provider shall ensure that menus include the basic four food groups and each youth's nutritional needs are met. Menus shall be maintained on file for at least a month.

b. If youths develop and prepare their menus and meals, the provider shall give assistance to ensure nutritional standards.

10. Critical Incidents

a. If the youth is 18 to 21, the provider shall notify the law enforcement agency exercising local authority and jurisdiction.

11. Emergency Preparedness

a. The provider shall ensure the development of an emergency evacuation policy and safety plan for each youth that is specific for location of the living unit in the event of a fire, natural or national disaster. The youth's record shall document that the youth has acknowledged receiving a copy of this policy and plan at admission.

b. A provider shall document that all youth are trained in emergency procedures within one week of admission. Such training shall include:

- i. instruction in evacuation from the living situation;
- ii. instruction in contacting police, fire and other emergency services; and
- iii. instruction in fire and accident prevention.

B. Certification of an Independent Living Unit

1. Requirements for a Living Unit

a. The living unit shall be occupied by only a youth approved to occupy the living unit by the provider.

b. Nonresidents shall be asked to vacate the living unit.

c. Each youth shall have his/her own bed.

d. The provider shall assure and document that the living unit:

- i. does not present a hazard to the health and safety of the youth;
- ii. is well ventilated and heated; and
- iii. complies with state and local health requirements regarding water and sanitation;
- iv. is furnished with items to include:
 - (a). window coverings;
 - (b). basic local telephone service;
 - (c). food and kitchenware;
 - (d). linen;
 - (e). bedding;
 - (f). routine supplies.

C. Placement of a Youth

1. Initial Placement

a. The provider shall:

- i. place a youth only in an approved foster care setting; and
- ii. keep a youth who has been committed to the Department of Corrections, Office of Juvenile Justice for the commission of a sex crime in a separate living arrangement from a youth committed to the department.

2. Service Agreement

a. The provider shall ensure that a written service agreement is completed prior to placement. A copy of the agreement, signed by the provider, the youth, if applicable the legally responsible party and all those involved in its formulation, shall be kept in the youth's record and a copy shall be available to DSS, the youth, and where appropriate, the legally responsible person.

b. The service agreement shall include:

i. a delineation of the respective roles and responsibilities of the provider and where applicable, the referring provider;

ii. specification of all services to be provided including the plan for contact between the youth and provider staff;

iii. facility rules that will govern continued participation in the transitional living program, and consequences of inappropriate behavior of youth while in care;

iv. the provider's expectations concerning the youth and the youth's responsibility;

v. criteria for discharge;

vi. specification of financial arrangements including any fees to be paid by the youth;

vii. authorization to care for the youth;

viii. authorization for medical care;

ix. attendance and absences from the provider to also include curfew times; and

x. criteria for notifying the funding provider of any change of address of the youth and any significant change in the youth's life or program.

c. The provider shall select a living arrangement for a youth based upon the individual needs of the youth based on an assessment of the youth's skills and knowledge.

d. The assessment shall be completed within 10 days of the youth's placement.

e. The assessment tool shall assess the following:

i. money management and consumer awareness;

ii. job search skills;

iii. job retention skills;

iv. use of and access to:

(a). community resources;

(b). housing; and

(c). transportation;

v. educational planning;

vi. emergency and safety skills;

vii. legal knowledge;

viii. interpersonal skills, including communication skills;

ix. health care knowledge, including knowledge of nutrition;

x. human development knowledge, including sexuality;

xi. management of food, including food preparation;

xii. ability to maintain personal appearance;

xiii. housekeeping; and

xiv. leisure activities.

f. The youth shall participate in the intake process and in the decision that placement is appropriate, to the extent that the youth's age, maturity, adjustment, family

relationships, and the circumstance necessitating placement justify the youth's participation.

g. The provider shall document the placement in the provider's file.

h. The assessment will be placed in the youth's record.

3. Service Plan

a. The provider shall:

i. within 30 days of a youth's placement, develop a written service plan based upon the individual needs of the youth and, if appropriate, the youth's family, which addresses the:

(a). educational, job training, housing, and independent living goals;

(b). objectives to accomplish a goal;

(c). methods of service delivery necessary to achieve a goal and an objective;

(d). person responsible for each activity;

(e). specific timeframes to achieve a goal and an objective;

(f). identification of a discharge plan;

(g). plan for aftercare services; and

(h). plan for services from a cooperating provider;

b. review the youth's service plan, placement and permanency goals on a quarterly basis or more frequently as the youth's needs or circumstances dictate.

4. Supervision of the Youth

a. The provider shall have a written plan for providing support and supervision.

b. The provider staff shall have contact with the youth on a daily basis which may include, but is not limited to, a confirmed e-mail or text or telephone contact.

c. The provider staff shall have at least three face-to-face visits weekly. A youth may not be seen less than the above amount unless specified by his/her plan, which has been signed by the parent or legal guardian.

d. All contacts with the youth shall be documented; and

e. There shall be provisions for emergency access by youth to an appropriate provider staff member on a 24-hour basis.

f. The provider shall, through at least monthly visits by staff to the living situation, determine and document that:

i. there is no reasonable cause for believing that the youth's mode of life or living situation presents any unacceptable risks to the youth's health or safety including a review for use of alcohol or illegal contraband;

ii. the living situation is maintained in a clean and safe condition;

iii. the youth is receiving any necessary medical care;

iv. the current provider plan provides appropriate and sufficient services to the youth.

g. Document annual compliance with fire and building codes for any living unit in which the provider places the youth.

5. Discharge Process

a. A provider shall have a written discharge policy detailing the reasons a youth may be discharged.

b. A provider shall, whenever possible, notify the youth's parent(s), tutor or curator as soon as possible or within fourteen working days prior to the planned discharge of a youth.

c. A provider shall compile a complete written discharge summary immediately upon discharge; such summary to be included in the youth's record. When the youth is discharged to another provider, this summary must accompany the youth. This summary shall include:

i. a summary of services provided during involvement in the program;

ii. a summary of growth and accomplishments during involvement;

iii. the assessed needs which remain to be met and alternate service possibilities that might meet those needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:477 and ACT 64 of the 2010 Regular Legislative Session.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Division of Programs, Licensing Section LR 37:

Ruth Johnson
Secretary

1010#008

DECLARATION OF EMERGENCY

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Applications, Federal
Grant Aid and ACT Test (LAC 28:IV.505)

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

This rulemaking revises the TOPS application deadline to allow payment of a TOPS Award beginning with the first semester, quarter or term of first-time, full-time enrollment for those students whose application for TOPS is received on or before July 1 (or no more than 120 days later with a reduction in award) immediately following the first anniversary of the student's high school graduation.

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

This Declaration of Emergency is effective September 15, 2010, and shall remain in effect for the maximum period allowed under the Administrative Procedure Act. (SG11123E)

**Title 28
EDUCATION**

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

Scholarship and Grant Programs

**Chapter 5. Applications, Federal Grant Aid and ACT
Test**

**§505. Application Deadlines for High School
Graduates and Home Study Completers of 2004
and Later and Eligible Non-Graduates**

A.1. - B.1. ...

2. Beginning with the 2007-2008 academic year (college), students will be eligible to receive the full benefits of a TOPS award as provided in §701.E beginning with the academic year (college) immediately after the student's one year anniversary of high school graduation if their initial FAFSA or on-line application is received after the July 1 immediately following the academic year (high school) of high school graduation and no later than the final deadline set forth in Subsection C, below, and if the student was enrolled during the preceding academic year (college), the student has met the requirements for continuing eligibility.

3.i. Beginning with the 2010-2011 academic year (college), students whose initial FAFSA or on-line application is received on or before July 1 immediately following the one year anniversary of high school graduation will receive payment of their TOPS award as provided in §701.E beginning with the first semester, quarter or term the student enrolls for the first time as a full time student in an eligible college or university; provided that no payment of a TOPS award shall be made until the initial FAFSA or on-line application has been received and the applicant has been determined eligible for a TOPS award.

ii. If the initial FAFSA or on-line application is received after July 1 immediately following high school graduation, the payment of the TOPS award could be delayed depending on the date the application is received and the date the student enrolls for the first time as a full time student in an eligible college or university.

iii. A student who enrolls for the first time as a full time student before his FAFSA or on-line application is received must meet the requirements for maintaining eligibility in §705 to receive payments of his TOPS award after the first semester, quarter or term of full time enrollment at an eligible college or university.

4. Examples

a. A 2009-2010 academic year (high school) high school graduate, who enrolls in the fall semester of 2010, will be eligible to receive the full benefits of a TOPS award beginning the fall semester of 2010 if the initial FAFSA or on-line application is received on or before July 1, 2010.

b. A 2009-2010 academic year (high school) high school graduate, who enrolls during the 2010-2011 academic year, will be eligible to receive the full benefits of a TOPS award beginning the fall semester of 2010 if the initial FAFSA or on-line application is received no later than July 1, 2011, and if he has met the requirements for continuing eligibility.

C. - G. ...

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

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

LR 22:338 (May 1996), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), repromulgated LR 27:1847 (November 2001), amended LR 30:2017 (September 2004), LR 31:37 (January 2005), LR 32:2238 (December 2006), LR 33:83 (January 2007), LR 33:2357 (November 2007), LR 34:235 (February 2008), LR 37:

George Badge Eldredge
General Counsel

1010#001

DECLARATION OF EMERGENCY

**Office of the Governor
Division of Administration
Office of Statewide Uniform Payroll**

Self-Directed Payroll Savings Bond Plan (LAC 4:III.1101)

The Division of Administration through the Office of State Uniform Payroll, is exercising the emergency provisions of the Administrative Procedures Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 39:247, adopts the following emergency rule effective October 1, 2010. This Rule shall remain in effect for the maximum period of time allowed under the Act. However, any policy established pursuant to this Emergency Rule shall remain in effect until changed or repealed.

The Division of Administration, through the Office of State Uniform Payroll, finds it necessary to issue this emergency rule to institute a new policy regarding the purchase of U.S. Savings Bonds through payroll deductions. Beginning January 1, 2011, U.S. Treasury regulations will no longer allow the issuance of paper bonds through payroll deduction. Instead, the U.S. Treasury will only provide electronic bonds through TreasuryDirect accounts at www.TreasuryDirect.gov. The sole bond issuing agency (National Bond and Trust) which has contractually managed the State's Savings Bond Program for ISIS HR payroll employees has advised that it will no longer print bonds after November 30, 2010, and will no longer manage accounts containing payroll deductions on behalf of Louisiana state employees. As such, the Office of State Uniform Payroll will no longer be able to comply with the strict statutory requirements of R.S. 42:451 and 42:452, the statutes that mandate that the state's payroll systems allow employee payroll deductions for the purchase of savings bonds, and to provide for the maintenance and management of employee accounts.

The Office of State Uniform Payroll is authorized by existing law to allow employees paid through the ISIS HR payroll system to self-direct electronic payroll deposits to one or more banks of their choice. Therefore, the Division of Administration, through the Office of State Uniform Payroll, in order to allow those employees who desire to voluntarily participate in the purchase of U.S. Savings Bonds, will allow employees paid through the ISIS HR payroll system to self-direct payroll deposits to self-established employee accounts with TreasuryDirect. Transfers will be handled strictly as direct deposits to the employee's TreasuryDirect bank account rather than as payroll deductions managed by a third party. Accounts may only be established and maintained by each employee through the TreasuryDirect website.

**Title 4
ADMINISTRATION**

Part III. Payroll

Chapter 11. Self-Directed Payroll Savings Bond Plan

§1101. Establishment

A. As of December 1, 2010, the Office of State Uniform Payroll shall no longer direct employee payroll deductions to National Bond and Trust, or to any other party for the establishment of payroll savings accounts for the purchase of U.S. Savings Bonds. The Office of State Uniform Payroll shall cooperate with National Bond and Trust to refund any amounts remaining in individual employee savings accounts to the respective employees.

B. As of December 1, 2010, it shall be the policy of the Office of State Uniform Payroll to notify those employees paid through the ISIS HR payroll system, by publication or on its website, of the availability of U.S. Savings Bonds directly from TreasuryDirect. The Office of State Uniform Payroll may instruct employees how to directly establish accounts with TreasuryDirect, and may also establish a link from its website to www.TreasuryDirect.gov. The policy established herein shall continue until such time as it is modified or terminated by the Office of State Uniform Payroll.

C. The establishment of accounts through TreasuryDirect, and the purchase of U.S. Savings Bonds by directing electronic payroll deposits to accounts with TreasuryDirect, shall hereinafter be the sole responsibility of the employee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:247.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Division of Administration, Office of State Uniform Payroll, LR 37:

Paul W. Rainwater
Commissioner

1010#007

DECLARATION OF EMERGENCY

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

Coordinated Care Network
(LAC 50:I.Chapters 31-39)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:I.Chapters 31 through 39 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Bureau of Health Services Financing adopted provisions to establish the CommunityCARE Program as an optional service covered under the Medicaid State Plan (Louisiana Register, Volume 32, Number 3). The CommunityCARE Program is a statewide primary care case management program designed to improve the accessibility, continuity and quality of care

for certain groups of Medicaid recipients. The department now proposes to adopt provisions that will establish enhancements in order to create a more cost effective health care delivery system that provides a continuum of evidence-based, quality-driven health care services. This more cost effective health care delivery system, hereafter called the Coordinated Care Network, will enable the Medicaid Program to establish a coordinated system of care designed to improve performance and health care outcomes through a healthcare delivery system of integrated networks.

This action is being taken to avoid a budget deficit in the medical assistance programs. It is estimated that implementation of this Emergency Rule will reduce expenditures in the Medicaid Program by approximately \$3,900,446 for state fiscal year 2010-2011.

Effective October 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing adopts provisions governing the implementation of coordinated care networks.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Coordinated Care

Chapter 31. Coordinated Care Network

§3101. Introduction

A. A coordinated care network (CCN) is an organized health care delivery system designed to improve access to care and the quality of services as well as to promote healthier outcomes for Medicaid recipients through the establishment of a medical home system of care.

B. Coordinated care networks may be either a shared savings model (CCN-S) or prepaid model (CCN-P).

1. A CCN-S is an entity that serves as a primary care case manager by providing enhanced primary care case management in addition to contracting with primary care providers (PCPs) for primary care management.

2. A CCN-P is a risk-bearing, pre-paid health care delivery system that is responsible for the provision of specified Medicaid State Plan services.

C. It is the department's goal to develop a health care delivery system that improves access to care, care coordination and promotes healthier outcomes.

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

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

§3103. Recipient Participation

A. The following Medicaid recipients shall be mandatory participants in coordinated care networks.

1. Categorically Needy Individuals

a. Children up to 19 years of age and their parents who are eligible under Section 1931 of the Social Security Act (hereafter referred to as the Act) as poverty-level related groups or optional groups of older children and caretaker relatives.

b. Qualified pregnant women and children who are eligible under Sections 1902 and 1905 of the Act.

c. Aged, blind and disabled adults over the age of 19 who are eligible under Sections 1619, 1634, 1902 and 1905 of the Act. These individuals may be receiving cash payments through Supplemental Security Income (SSI) or have lost SSI eligibility due to a Social Security cost-of-living adjustment (COLA) or entitlement for, or an increase

in Retirement, Survivors or Disability Insurance (RSDI) benefits.

d. Uninsured women under the age of 65 who have been screened through the Centers for Disease Control National Breast and Cervical Cancer Early Detection Program and identified as being in need of treatment for breast and/or cervical cancer, including pre-cancerous conditions and early stage cancer, and are not otherwise eligible for Medicaid.

2. Medically Needy Individuals

a. Individuals and families who have more income than is allowed for Medicaid eligibility, but who meet the standards for the Regular Medically Needy Program.

B. Voluntary Participants

1. Participation in a CCN is voluntary for:

a. individuals who are Native Americans/Alaskan Natives and members of a federally recognized tribe except when the managed care organization or primary care case management entity is:

i. the Indian Health Service; or
ii. an Indian health program or urban Indian program operated by a tribe or tribal organization under a contract, grant, cooperative agreement or compact with the Indian Health Service; and

b. Children under 19 years of age who are:

i. eligible under section 1902(e)(3) of the Act;
ii. in foster care or other out-of-home placement;
iii. receiving foster care or adoption assistance;
iv. receiving services through a family-centered, community-based coordinated care system that receives grant funds under section 501(a)(1)(D) of Title V, and is defined by the department in terms of either program participation or special health care needs; or

v. enrolled in the Family Opportunity Act Medicaid Buy-In Program.

NOTE: These recipients will be enrolled in a CCN if they do not choose a plan after a choice period of 15 days. They may request disenrollment at any time, without cause, effective the first day following the month of the request for disenrollment.

C. The enrollment broker will ensure that all voluntary participants are notified at the time of enrollment that they may request disenrollment from the CCN at any time without stating a cause.

1. An extension to the choice period for 15 days may be granted if the request is made to the enrollment broker prior to the fifteenth day.

D. Participation Exclusion

1. The following Medicaid recipients are excluded from participation in a CCN and cannot voluntarily enroll in a CCN. Individuals who:

a. receive hospice services;
b. are Medicare beneficiaries;
c. reside in a long-term care facility (nursing facility or intermediate care facility for persons with developmental disabilities);
d. receive home and community-based waiver services;
e. are under 21 years of age and are listed on the New Opportunities Waiver Request for Services Registry (Chisholm Class Members);
f. receive services through the Program of All-Inclusive Care for the Elderly (PACE);

g. have a limited period of eligibility such as eligibility through the Spend-down Medically Needy Program or Emergency Services Only;

h. are eligible through the Louisiana Children's Health Insurance Program (LaCHIP) Prenatal Option or Affordable Plan Program;

i. are participants in the Take Charge Family Planning Waiver Program;

j. whose eligibility is through the Tuberculosis Infected Individual Program; or

k. are eligible for the Louisiana Health Premium Payment (LaHIPP) Program.

E. The department reserves the right to institute a medical exemption process for certain medically high risk recipients that may warrant the direct care and supervision of a non-primary care specialist.

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

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

§3105. Enrollment Process

A. The CCN shall abide by all enrollment and disenrollment policy and procedures as outlined in the provider agreement and *CCN Policy and Procedure Guide* developed by the department.

B. The department will contract with an enrollment broker who will be responsible for the enrollment and disenrollment process for CCN participants. The enrollment broker shall be:

1. the primary contact for Medicaid recipients regarding the CCN and shall assist the recipient to enroll in a CCN;

2. the only authorized entity, other than the department, to assist a Medicaid recipient in the selection of a CCN; and

3. responsible for notifying all CCN members of their enrollment and disenrollment rights and responsibilities within the timeframe specified in the provider agreement.

C. Enrollment Period. The annual enrollment of a CCN member shall be for a period up to 12 months contingent upon his/her continued Medicaid and CCN eligibility. A member shall remain enrolled in the CCN until:

1. DHH or its enrollment broker approves the member's written, electronic or oral request to disenroll or transfer to another CCN for cause; or

2. the member becomes ineligible for Medicaid and/or the CCN program.

D. Enrollment of Newborns. Newborns of Medicaid eligible mothers who are enrolled at the time of the newborn's birth will be automatically enrolled with the mother's CCN, retroactive to the month of the newborn's birth.

1. If there is an administrative delay in enrolling the newborn and costs are incurred during that period, the member shall be held harmless for those costs and the CCN shall pay for these services.

2. The CCN and its providers shall be required to register all births through LEERS (Louisiana Electronic Event Registration System) administered by DHH/Vital Records Registry.

E. Selection of a CCN

1. As part of the eligibility determination process, Medicaid and LaCHIP applicants may receive information and assistance with making informed choices about the CCNs in their parish of residence and the availability of choice counseling. These individuals will have the opportunity to talk with an enrollment broker who shall provide additional information to assist in choosing the appropriate CCN.

2. Each new recipient shall be given no less than 15 calendar days from the postmark date of an enrollment form received from the enrollment broker to select a CCN and primary care provider (PCP).

a. Recipients may request an additional 15 day extension to the choice period if the request is made to the enrollment broker prior to the fifteenth day.

b. Recipients who fail to choose a CCN shall be automatically assigned to a CCN by the enrollment broker and the CCN shall be responsible to assign the member to a PCP if a PCP is not selected at the time of enrollment into the CCN.

3. The following provisions will be applicable for recipients who are mandatory participants for both the CCN and CommunityCARE Program.

a. If there are two or more CCNs in the parish in which the recipient resides, they shall select one.

b. If there is only one CCN in an urban parish where the recipient resides, the recipient must choose either the CCN or CommunityCARE.

c. If there is only one CCN in a rural parish where the recipient resides, he/she will be assigned to the CCN if there is capacity. If there is not capacity within the CCN, the recipient shall be enrolled in CommunityCARE.

i. Individuals whose basis of eligibility is pregnancy will have a choice between the CCN and Medicaid fee-for-service.

d. Recipients who fail to make a selection will be automatically assigned to a participating CCN in their area.

4. The following provisions will be applicable for recipients who are mandatory participants for CCN, but are non-mandatory participants for the CommunityCARE Program.

a. If there are two or more CCNs in the parish in which the recipient resides, the recipient shall select a CCN or be automatically assigned if a choice is not made.

b. If there is only one CCN in an urban parish where the recipient resides, the recipient will have a choice between the CCN and Medicaid fee-for-service.

c. If there is only one CCN in a rural parish where the recipient resides, the recipient will be assigned to the CCN if there is capacity. If there is not capacity within the CCN, the recipient shall be assigned to Medicaid fee-for-service.

d. Recipients who fail to make a selection will be automatically assigned to a participating CCN in their area.

5. The following provisions will be applicable for recipients who are voluntary participants for the CCN.

a. If there are two or more CCNs in the parish in which the recipient resides, the recipient may select one.

b. If there are less than two CCNs in an urban parish where the recipient resides, the recipient will have a choice between the CCN and Medicaid fee-for-service.

c. If there is only one CCN in a rural parish where the recipient resides, the recipient will have a choice between the CCN, if there is capacity, and Medicaid fee-for-service. If there is not capacity within the CCN, the recipient shall be assigned to Medicaid fee-for-service.

d. Voluntary participants who fail to select a CCN or indicate their desire not to participate in a CCN will, by default, be automatically assigned to a participating CCN in their area.

e. Voluntary participants may request to transfer out of the CCN at any time to Medicaid for-for-service and the change will be effective the first day of the following month.

F. Automatic Assignment Process

1. Mandatory CCN participants that fail to select a CCN, and voluntary participants that do not exercise their option not to participate in the CCN program within the minimum 15 day window, shall be automatically assigned to a CCN by the enrollment broker in accordance with the department's algorithm/formula and §3105.E. CCN automatic assignments shall take into consideration factors including, but not limited to:

a. the potential enrollee's geographic parish of residence;

b. CCN geographic services area (preference will be given to CCNs with a service area that includes all parishes within a DHH Administrative Region);

c. previous PCP relationships in linkage with a CommunityCARE PCP (when there is a transition from CommunityCARE to CCN);

d. provider capacity;

e. quality indicators; and

f. provider practice restrictions/limits.

2. Neither the prepaid model nor the shared savings model will be given preference in making automatic assignments. If an entity is operating both a prepaid and a shared savings model within a service area, it will be treated as one entity for automatic assignment purposes with assignment being made equally between the two models.

3. CCN and PCP automatic assignment methodology shall be available to recipients upon request to the enrollment broker prior to enrollment.

G. Selection or Automatic Assignment of a Primary Care Provider

1. As part of the Medicaid and LaCHIP application process, applicants will be given the option to indicate their preferred choice of a CCN and primary care provider.

a. If the choice of PCP is not indicated on the new enrollee file transmitted by the enrollment broker to the CCN, the CCN shall be responsible to assign the PCP.

2. The CCN is responsible to develop a PCP automatic assignment methodology in collaboration with the department for the assignment of a PCP to an enrollee who:

a. does not make a PCP selection after making a voluntary selection of a CCN;

b. selects a PCP within the CCN that has reached their maximum physician/patient ratio; or

c. selects a PCP within the CCN that has restrictions/limitations (e.g. pediatric only practice).

4. Members who do not proactively choose a PCP with a CCN will be automatically assigned to a PCP by the CCN. The PCP automatically assigned to the member should

be located within geographic access standards of the member's home; and/or best meets the needs of the member.

5. If the enrollee does not select a PCP and is automatically assigned to a PCP by the CCN, the CCN shall allow the enrollee to change PCP, at least once, during the first 90 days from the date of assignment to the PCP. Effective the ninety-first day, a member may be locked into the PCP assignment for a period of up to nine months beginning from the original date that he/she was assigned to the PCP.

6. If a member requests to change his/her PCP for cause at any time during the enrollment period, the CCN must agree to grant the request to the extent reasonable and practical.

H. Lock-In Period

1. Members have 90 days from the initial date of enrollment into a CCN in which they may change the CCN for any reason. Medicaid enrollees may only change CCNs without cause within the initial 90 days of enrollment in a CCN. After the initial 90 day period, Medicaid enrollees/members shall be locked into a CCN for nine additional months from the effective date of enrollment or until the annual open enrollment period, unless disenrolled under one of the conditions described in this Section.

I. Annual Open Enrollment

1. The department will provide an opportunity for all CCN members to retain or select a new CCN annually during the CCN member's open enrollment period. Prior to their annual open enrollment period, each CCN member shall receive information and the offer of assistance with making informed choices about CCNs in their area and the availability of choice counseling.

2. Members shall have the opportunity to talk with a staff member of the enrollment broker who shall provide additional information to assist in choosing the appropriate CCN. The enrollment broker shall provide the individual with information on each type of entity from which they may select.

3. During the open enrollment period, each Medicaid enrollee shall be given 60 calendar days to remain in their existing CCN or select a new CCN.

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

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

§3107. Disenrollment and Change of Coordinated Care Network

A. A member who is a voluntary participant may request disenrollment from a CCN without cause at any time, effective the first day of the month following the month in which the member files the request.

B. A member who is a mandatory participant may request disenrollment from a CCN for cause at any time.

1. Without cause, a mandatory participant may request disenrollment at the following times:

a. during the 90 days following the date of the member's initial enrollment with the CCN or the date the department sends the member notice of the enrollment, whichever is later;

b. at least once a year during the member's annual open enrollment period thereafter;

c. upon automatic re-enrollment if a temporary loss of Medicaid eligibility has caused the member to miss the annual open enrollment opportunity; or

d. if the department imposes the intermediate sanction against the CCN which grants enrollees the right to terminate enrollment without cause and notifies the affected enrollees of their right to disenroll.

2. For an enrollee of a rural single CCN, any limitation the CCN imposes on the CCN enrollee's freedom to change between primary care providers may be no more restrictive than the limitation on disenrollment.

C. All member-initiated disenrollment requests must be made to the enrollment broker.

1. Oral requests to disenroll shall be confirmed by the enrollment broker by return call with written documentation, or in writing to the requestor.

2. A member's oral or written request to disenroll must be acted on no later than the first day of the second month following the month in which the member filed the request. If not, the request shall be considered approved.

3. If the disenrollment request is denied, the member may access the department's fair hearing process as outlined in the provider agreement.

4. The effective date of disenrollment shall be no later than the first day of the second month following the calendar month the request for disenrollment is filed.

D. Disenrollment for Cause

1. A member who is a mandatory participant and subject to the CCN "lock-in" period may initiate disenrollment or transfer from their assigned CCN after the first 90 days of enrollment for cause at any time. The following circumstances are cause for disenrollment:

a. the member moves out of the CCN's designated service area;

b. the CCN does not, because of moral or religious objections, cover the service that the member seeks;

c. the member needs related services to be performed at the same time, not all related services are available within the CCN and the member's PCP or another provider determines that receiving the services separately would subject the member to unnecessary risk;

d. the provider agreement between the CCN and the department is terminated;

e. the member loses Medicaid eligibility;

f. the member is placed in a nursing facility or intermediate care facility for individuals with developmental disabilities;

g. the member's eligibility changes to an excluded eligibility group;

h. to implement the decision of a hearing officer in an appeal proceeding by the member against the CCN or as ordered by a court of law; and

i. other reasons including, but not limited to:

i. poor quality of care;

ii. lack of access to services covered under the provider agreement; or

iii. lack of access to providers experienced in dealing with the enrollee's health care needs.

E. Involuntary Disenrollment

1. The CCN may submit an involuntary disenrollment request to the enrollment broker, with proper documentation, for the following reasons:

a. fraudulent use of the CCN identification card. In such cases the CCN shall report the event to the Medicaid Program Integrity Section; or

b. the member's behavior is disruptive, unruly, abusive or uncooperative to the extent that his/her enrollment seriously impairs the CCN's ability to furnish services to either the member or other members.

2. The CCN shall promptly submit such disenrollment requests to the enrollment broker. The effective date of an involuntary disenrollment shall not be earlier than 45 calendar days after the occurrence of the event that prompted the request for involuntary disenrollment. The CCN shall ensure that involuntary disenrollment documents are maintained in an identifiable member record.

3. All requests will be reviewed on a case-by-case basis and subject to the sole discretion of the department. All decisions are final and not subject to CCN dispute or appeal.

4. The CCN may not request disenrollment because of a member's:

- a. health diagnosis;
- b. adverse change in health status;
- c. utilization of medical services;
- d. diminished mental capacity;
- e. pre-existing medical condition;
- f. refusal of medical care or diagnostic testing;
- g. uncooperative or disruptive behavior resulting from his or her special needs, unless it seriously impairs the CCN's ability to furnish services to either this particular member or other members as defined in this subsection;

h. attempt to exercise his/her rights under the CCN's grievance system; or

i. request of one PCP to have a member assigned to a different provider out of the CCN.

F. Department Initiated Disenrollment

1. The department will notify the CCN of the member's disenrollment due to the following reasons:

- a. loss of Medicaid eligibility or loss of CCN enrollment eligibility;
- b. death of a member;
- c. member's intentional submission of fraudulent information;
- d. member becomes an inmate of a public institution;
- e. member moves out of state;
- f. member becomes Medicare eligible;
- g. member is placed in a long term care facility (nursing facility or intermediate care facility for persons with developmental disabilities);
- h. member becomes a participant in a home and community-based services waiver;
- i. member elects to receive hospice services;
- j. loss of CCN's participation; or
- k. member enrolls in a managed care plan through third party coverage.

G. If the CCN ceases participation in a geographic service area or in the CCN Program, the CCN shall notify the department in accordance with the termination procedures described in the provider agreement.

1. The enrollment broker will notify CCN members of the choices of CCNs in their geographic area. If there are no other CCN or CommunityCARE options, they will be placed in fee-for-service.

2. The CCN shall assist the department in transitioning the CCN members to another CCN or to the Medicaid fee-for-service delivery system to ensure access to needed health care services.

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

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

§3109. Member Rights and Responsibilities

A. The CCN member's rights shall include, but are not limited to the right to:

1. receive information in accordance with federal regulations and as described in the provider agreement;

2. receive courteous, considerate and respectful treatment provided with due consideration for the member's dignity and privacy;

3. receive information on available treatment options and alternatives in a manner appropriate to the member's condition and ability to understand;

4. participate in treatment decisions, including the right to:

a. refuse treatment;

b. complete information about their specific condition and treatment options including, but not limited to the right to receive services in a home or community setting or in an institutional setting if desired, regardless of cost or benefit coverage;

c. seek second opinions;

d. information about available experimental treatments and clinical trials and how such research can be accessed; and

e. assistance with care coordination from the PCP's office;

5. be free from any form of restraint or seclusion as a means of coercion, discipline, retaliation or convenience;

6. express a concern about their CCN or the care it provides, or appeal a CCN decision, and receive a response in a reasonable period of time;

7. receive a copy of their medical records, including, if the HIPAA privacy rule applies, the right to request that the records be amended or corrected as allowed in federal regulations;

8. be furnished health care services in accordance with federal regulations governing access standards;

9. implement an advance directive as required in federal regulations (applicable for CCN-P only):

a. The CCN must provide adult enrollees with written information on advanced directive policies and include a description of applicable state law. The written information must reflect changes in state law as soon as possible, but no later than 90 days after the effective date of change.

b. Members have the right to file a grievance concerning noncompliance with the advance directive requirements to the department or other appropriate licensing or certification agency as allowed in federal regulations;

10. choose his/her health professional to the extent possible and appropriate in accordance with federal regulations; and

11. be furnished health care services in accordance with federal regulations.

B. Members shall have the freedom to exercise the rights described herein without any adverse affect on the member's treatment by the department or the CCN, or its contractors or providers.

C. The CCN member's responsibilities shall include, but are not limited to:

1. informing the CCN of the loss or theft of their CCN identification card;
2. presenting their identification card when using health care services;
3. being familiar with the CCN procedures to the best of his/her abilities;
4. contacting the CCN, by telephone or in writing, to obtain information and have questions clarified;
5. providing participating network providers with accurate and complete medical information;
6. following the prescribed treatment of care recommended by the provider or letting the provider know the reasons the treatment cannot be followed, as soon as possible; and
7. making every effort to keep any agreed upon appointments, and follow-up appointments; and accessing preventive care services.

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

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

Chapter 33. Coordinated Care Network Shared Savings Model

§3301. Participation Requirements

A. In order to participate in the Medicaid Program, a coordinated care network shared savings model (CCN-S) shall complete a provider agreement. CCN-S is required to comply with all of the terms and conditions set forth in the provider agreement.

B. A CCN-S must:

1. meet the definition of a primary care case manager (PCCM) in accordance with federal regulations;
2. be a legal entity domiciled in Louisiana and registered with the Louisiana Secretary of State's Office to do business in the state;
3. be licensed or authorized as a medical necessity review organization (MNRO) by the Louisiana Department of Insurance (DOI) or contract with a Louisiana DOI licensed or authorized MNRO;
4. have the capability to pre-process claims (with the exception of carved-out services) and transfer data to the department's fiscal intermediary or have a contract with an entity to perform these functions;
5. provide financial reports as requested by the department;
6. post a surety bond for an amount specified by the department for the at-risk portion of the enhanced care management fee;
7. post a performance bond for an amount specified by the department;
8. not have an actual or perceived conflict of interest that, in the discretion of the department, would interfere or give the appearance of possibly interfering with its duties and obligations under this Rule, the provider agreement and any and all appropriate guides. Conflict of interest shall include, but is not limited to, being the fiscal intermediary contractor for the department;

9. have network capacity to enroll a minimum of 15,000 Medicaid and LaCHIP eligibles into the network;

10. at the discretion of the department, has successfully completed the CCN-S enrollment process; and

11. enrolled as a Medicaid provider.

C. A CCN-S shall provide enhanced primary care case management services to recipients in specified geographic service area(s), which must, at a minimum, include an entire parish and may include contiguous parishes as approved by the department and set forth in the provider agreement.

1. Parishes cannot be subdivided to form service areas.

2. Enhanced primary care case management services shall be provided to all Medicaid recipients enrolled in the CCN-S throughout the designated geographic service area as defined by the department and agreed upon by the CCN-S.

D. Upon request by the Centers for Medicare and Medicaid Services (CMS), the Office of Inspector General (OIG), the Government Accounting Office (GAO) and/or the department or its designee, a CCN-S shall make all of its records pertaining to its provider agreement (services provided there under and payment for service) with the department available for review, evaluation and audit. The records shall include, but are not limited to the following:

1. pertinent books and documents;
2. financial records;
3. medical records and documents; and
4. provider records and documents involving financial transactions related to the provider agreement.

E. A CCN-S shall maintain an automated management information system that collects, analyzes, integrates and reports data that complies with department and federal reporting requirements.

F. A CCN-S shall obtain insurance coverage(s) including, but not limited to, workman's compensation, commercial liability, and errors and omissions as specified in the terms of the provider agreement. CCN-S contractors, if any, shall be covered under these policies or have insurance comparable to the CCN-S's required coverage.

G. A CCN-S shall maintain a minimum net worth amount as specified in the terms of the provider agreement.

H. A CCN-S shall provide all financial reporting as specified in the terms of the provider agreement.

I. A CCN-S shall secure and maintain performance and fidelity bonds as specified in the terms of the provider agreement during the life of the provider agreement.

J. In the event of noncompliance with the provider agreement and the department's guidelines, a CCN-S shall be subject to the sanctions specified in the terms of the provider agreement including, but not limited to:

1. corrective action plans;
2. monetary penalties;
3. temporary management; or
4. suspension and/or termination of the CCN-S's provider agreement.

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

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

§3303. Shared Savings Model Responsibilities

A. The CCN-S shall be responsible for the administration and management of its requirements and responsibilities under the terms of the provider agreement,

the *CCN-S Policy and Procedure Guide* and any and all companion guides. This includes all contracts, employees, agents and anyone acting for or on behalf of the CCN-S.

1. No contract or delegation of responsibility shall terminate the legal responsibility of the CCN-S to the department to assure that all requirements are carried out.

B. A CCN-S shall possess the expertise and resources to ensure the delivery of enhanced primary care case management services to CCN-S members as specified in the terms of the provider agreement.

1. A CCN-S shall have written policies and procedures governing its operation. A CCN-S shall also have a written provider network development plan which describes how the network will assure the department that the provision of services will occur according to the terms and conditions of the provider agreement. These documents shall be furnished to the department upon request.

C. The CCN-S shall accept enrollees in the order in which they apply without restriction, up to the enrollment capacity limits set under the provider agreement. The CCN-S shall not discriminate against enrollees on the basis of race, gender, color, national origin, age, health status or need for health care services, and shall not use any policy or practice that has the effect of discriminating on any such basis.

D. A CCN-S shall provide enhanced primary care management services and PCP care management services as defined in the Medicaid State Plan and as specified in the terms of the provider agreement.

E. The CCN-S shall provide a chronic care management program as specified in the terms of the provider agreement.

F. The CCN-S shall establish and implement a quality assessment and performance improvement program as specified in the terms of the provider agreement.

G. The CCN-S shall develop and maintain a utilization management program including policies and procedures with defined structures and processes as specified in the terms of the provider agreement.

H. A CCN-S shall develop and maintain effective continuity of care activities which ensure a continuum of care approach to providing health care services to members.

I. A CCN-S shall promote and facilitate the capacity of all participating PCP practices to meet the recognition requirements of an NCQA PPC@-PCMH™ as jointly defined by NCQA and the department.

1. Participating PCPs shall be provided with technical support and incentives appropriate to assist the practices with their transition to a patient-centered medical home as specified in the terms of the provider agreement.

J. A CCN-S shall facilitate the data interchange between practices and the network as well as data interchange between the network and the department.

K. A CCN-S shall be responsible for conducting routine provider monitoring to ensure:

1. continued access to care for Medicaid recipients;
2. compliance with CCN-S policies and procedures; and
3. that the participating providers' practices meet or exceed the department's guidelines and timelines for implementation of patient-centered medical homes.

L. The CCN-S shall not engage the services of a provider who is in non-payment status with the department

or is excluded from participation in federal health care programs (i.e., Medicare, Medicaid, or the Children's Health Insurance Program).

M. Medical records shall be maintained in accordance with the terms and conditions of the provider agreement. These records shall be safeguarded in such a manner as to protect confidentiality and avoid inappropriate disclosure according to federal and state law.

N. The CCN-S shall provide referrals to the Women, Infants and Children (WIC) Program.

O. The CCN-S shall maintain staffing that is capable of fulfilling the requirements as specified in the terms of the provider agreement.

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

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

§3305. Coordination of Medicaid State Plan Services

A. Core benefits and services shall be defined as those health care services and benefits required to be provided to Medicaid CCN members enrolled in the CCN-S as specified under the terms of the provider agreement. Covered services shall be defined as those health care services and benefits to which an individual eligible for Medicaid is entitled under the Louisiana Medicaid State Plan.

B. The CCN-S shall be required to pre-process and provide service authorization, referrals, coordination, and/or assistance in scheduling medically necessary Medicaid covered services described in this Chapter, consistent with the standards as defined in the Louisiana Medicaid State Plan and the provider agreement regarding service limits and service authorization requirements; with the exception of physician visits.

1. The CCN-S may have policies and processes to authorize physician visits in excess of the 12 visits for adults specified in the State Plan, when it is cost effective to do so.

C. Covered services will be billed fee-for-service to the fiscal intermediary.

D. The following is a summary listing of the covered services for which the CCN-S shall provide service authorization, referrals, coordination, and/or assistance in scheduling. These services include, but are not limited to:

1. inpatient hospital services;
2. outpatient hospital services;
3. ancillary medical services;
4. organ transplant-related services;
5. Early and Periodic Screening, Diagnosis and Treatment (EPSDT)/Well Child visits;
6. emergency medical services;
7. communicable disease services;
8. durable medical equipment and certain supplies;
9. prosthetics and orthotics;
10. emergency medical transportation;
11. home health services;
12. family planning services;
13. basic behavioral health services;
14. school-based health clinic services;
15. physician services;
16. maternity services;
17. chiropractic services;
18. rehabilitation therapy services (physical, occupational, and speech therapies); and
19. non behavioral health drugs

E. The CCN-S will be responsible for coordinating those services that by statute must be provided and are medically necessary.

1. Claims will be paid fee-for-service through the Medicaid Management Information System (MMIS).

2. The CCN-S shall not implement hard limits and /or EPSDT services.

F. The CCN-S will not be responsible for pre-processing or providing service authorization for the following services, but shall provide any required referrals and coordination for these services:

1. Early Steps services (specified);
2. dental services;
3. hospice services;
4. personal care services (EPSDT and Long Term);
5. intermediate care facility services for individuals with developmental disabilities;
6. home and community-based waiver services;
7. behavioral health drugs;
8. school-based Individualized Education Plan (IEP) services;
9. non-emergency medical transportation;
10. nursing facility services;
11. specialized behavioral health services; and
12. targeted case management.

G. The CCN shall implement mechanisms, as specified in the provider agreement, to assess each Medicaid enrollee identified as having special health care needs in order to identify any ongoing special conditions of the enrollee that require a course of treatment or regular care monitoring.

1. The assessment mechanisms must use appropriate health care professionals.

2. The CCN shall have mechanisms to assess the quality and appropriateness of care furnished to enrollees with special health care needs.

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

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

§3307. Reimbursement Methodology

A. The department or its fiscal intermediary shall make monthly enhanced primary care case management fee payments to the CCN-S; and lump sum savings payments to the CCN-S, if eligible.

B. The enhanced primary care case management fee shall be based on the enrollee's Medicaid eligibility category as specified in the provider agreement and paid on a per member per month (PMPM) basis.

C. The enhanced primary care case management fee comprises reimbursement for enhanced primary care case management functions as specified in the terms of the provider agreement and includes funding for the CCN-S to pay the PCPs for care management (e.g. care coordination, referrals) to Medicaid enrollees linked to each PCP as specified in the terms and conditions of the provider agreement and all companion guides.

1. The CCN-S shall reimburse the PCP a monthly \$3 PMPM rate for each enrollee assigned to the PCP. The CCN-S may reimburse an amount greater than the \$3 PMPM, but not less than that amount unless it is mutually agreed upon by the PCP.

a. The CCN-S shall notify the department of any downward adjustment in the \$3 PMPM PCP care

management fee. The difference between the agreed upon PMPM and the \$3 PMPM shall be refunded to the department.

2. In order to be eligible to receive these payments, the PCP must enter into a contract with the CCN-S, meet or exceed the early warning signs measures, meet the performance measures goals and remain in compliance with all provisions contained in the contract.

3. The CCN-S shall be subject to sanctions if it is determined the CCN-S did not pay the \$3 PMPM PCP care management fee to the PCPs, unless otherwise agreed upon.

a. The CCN shall be sanctioned an amount equal to the amount the CCN was responsible to reimburse the PCPs, plus an additional amount up to \$25,000 for each event the department determines the PCP care management fee is not reimbursed.

b. The CCN-S shall be liable to reimburse the \$3 PMPM PCP care management fee owed to the PCP(s) and all costs incurred to issue payments to the PCP within the timelines specified by the department for such reimbursement or be subject to additional sanctions.

D. The department reserves the right to adjust these enhanced primary care case management fees on an as needed basis.

E. The CCN-S shall have limited risk for returning a percent of enhanced primary care case management fees advanced to the network when savings are not realized.

F. The department shall conduct a periodic reconciliation as specified in the provider agreement to determine savings realized or refunds due to the department.

1. The reconciliation shall compare the actual aggregate cost of authorized/preprocessed services as specified in the provider agreement and include the enhanced primary care case management fee for dates of services in the reconciliation period, to the aggregate Per Capita Prepaid Benchmark (PCPB). The PCPB will not include the PCP care management fees.

2. The PCPB will be set on the basis of health status-based risk adjustment.

a. The health risk of the Medicaid enrollees enrolled in the CCN-S will be measured using a nationally recognized risk-assessment model.

b. Utilizing this information, the PCPBs will be adjusted to account for the health risk for the enrollees in each CCN-S relative to the overall population being measured.

c. The health risk of the enrollees and associated CCN-S risk scores and the PCPBs will be updated periodically to reflect changes in risk over time.

3. Costs of the following services will be included in the determination of the PCPB. These services include, but are not limited to:

- a. nursing facilities,
- b. dental services,
- c. personal care services (EPSDT and long-term),
- d. hospice,
- e. specialized behavioral health drugs,
- f. school-based Individualized Education Plan services provided by a school district and billed through the intermediate school district,
- g. specified Early Steps Program services,

- h. specialized behavioral health services (e.g. mental health rehabilitation),
- i. targeted case management,
- j. non-emergency medical transportation,
- k. intermediate care facilities for persons with developmental disabilities; and
- l. home and community-based waiver services.

4. Individual member total cost for the reconciliation year in excess of an amount specified in the provider agreement will not be included in the determination of the PCPB, nor will it be included in actual cost at the point of reconciliation so that outlier cost of certain individuals and/or services will not jeopardize the overall savings achieved by the CCN-S.

a. Application of the individual member total cost shall include:

- i. when a member transitions between aid categories, claims will accumulate from zero under the new aid category;
- ii. maternity claims that fall into the kick payment bucket will not be included in determining whether the catastrophic limit has been reached; and
- iii. while no actual maternity kick payment is paid, a “benchmark maternity kick payment” has been calculated. This is a mechanism to protect plans with a disproportionate share of pregnant women in that the benchmark cost will increase for each additional delivery.

5. The department will perform interim and final reconciliations as of June 30 and December 31 of each year with provisions for incurred-but-not-reported (IBNR) claims included in the actual cost.

a. The department reserves the right to make interim payments of any savings for any dates of service with more than six months elapsed time.

b. A final reconciliation will be performed for any periods for which there are dates of service with more than 12 months elapsed time, at which point there should be sufficient completion of paid claims to determine total medical cost incurred by the CCN-S without the need to consider additional claims that have been incurred, but are still outstanding.

c. Final reconciliations will not be for less than 12 months of service unless determined appropriate by the department. In the first year of a CCN-S’s operations, the department will exclude claims from the first 30 days of operations when calculating the reconciliation.

6. In the event the CCN-S exceeds the PCPB in the aggregate (for the entire CCN-S enrollment) as calculated in the final reconciliation, the CCN-S will be required to refund up to 50 percent of the total amount of the enhanced primary care case management fees (excluding the PCP care management fee) paid to the CCN-S during the period being reconciled.

7. The CCN-S will be eligible to receive up to 60 percent of savings if the actual aggregate costs of authorized services, including enhanced primary care case management fees advanced, are less than the aggregate PCPB (for the entire CCN-S enrollment).

a. The enhanced primary care case management fee will be reduced by \$3 PMPM during the reconciliation process. The \$3 PMPM component of the enhanced primary

care case management fee is equivalent to the \$3 PMPM primary care case management fee paid in FFS.

b. Due to federally mandated limitations under the Medicaid State Plan, shared savings will be limited to 5 percent of the actual aggregate costs including the enhanced primary care case management fees paid. Such amounts shall be determined in the aggregate and not for separate enrollment types.

8. During a CCN-S’s first two years of operations, distribution of any savings will be contingent upon the CCN meeting the established “early warning system” performance measures and compliance under the provider agreement. After the second year of operations, distribution of savings will be contingent upon the CCN-S meeting department established quality performance measure benchmarks and compliance with the provider agreement.

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

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

Chapter 35. Coordinated Care Network Prepaid Model

§3501. Participation Requirements

A. In order to participate in the Medicaid Program, a coordinated care network prepaid model (CCN-P) shall enter into a provider agreement with the department to coordinate and provide the medically necessary health care services to Medicaid enrollees.

B. A CCN-P must:

- 1. meet the federal definition of an managed care organization (MCO) as defined in federal regulations;
 - 2. meet the requirements of R.S. 22:2016 and be licensed or have a certificate of authority from the Louisiana Department of Insurance pursuant to Title 22 of the Louisiana Revised Statutes;
 - 3. be certified by the Louisiana Secretary of State to conduct business in the state;
 - 4. meet solvency standards as specified in federal regulations and Title 22 of the Louisiana Revised Statutes;
 - 5. meet NCQA or URAC Health Plan Accreditation or agree to submit an application for accreditation at the earliest possible date as allowed by NCQA or URAC and once achieved, maintains accreditation through the life of this agreement;
 - 6. have a network capacity to enroll a minimum of 25,000 Medicaid and LaCHIP eligibles into the network;
 - 7. not have an actual or perceived conflict of interest that, in the discretion of the department, would interfere or give the appearance of possibly interfering with its duties and obligations under this Rule, the provider agreement and any and all appropriate guides. Conflict of interest shall include, but is not limited to, being the fiscal intermediary contractor for the department;
 - 8. at the discretion of the department, successfully completes the CCN enrollment process; and
 - 9. enrolls as a Medicaid provider.
- C. A CCN-P shall ensure the provision of core benefits and services to Medicaid enrollees in a designated geographic service area as specified in the terms of the provider agreement, which must, at a minimum, include an entire parish and may include contiguous parishes.
- 1. Parishes cannot be subdivided to form service areas.

D. Upon request by the Centers for Medicare and Medicaid Services (CMS), the Office of Inspector General (OIG), the Government Accounting Office (GAO) or the department or its designee, a CCN-P shall make all of its records pertaining to its provider agreement (services provided there under and payment for services) with the department available for review, evaluation and audit. The records shall include, but are not limited to the following:

1. pertinent books and documents;
2. financial records;
3. medical records and documents; and
4. provider records and documents involving financial transactions related to the provider agreement.

E. A CCN-P shall maintain an automated management information system that collects, analyzes, integrates and reports data that complies with department and federal reporting requirements.

F. A CCN-P shall obtain insurance coverage(s) including, but not limited to, workman's compensation, commercial liability, errors and omissions, and reinsurance as specified in the terms of the provider agreement. Contractors, if any, shall be covered under these policies or have insurance comparable to the CCN-P's required coverage.

G. A CCN-P shall provide all financial reporting as specified in the terms of the provider agreement.

H. A CCN-P shall secure and maintain a performance and fidelity bond as specified in the terms of the provider agreement during the life of the provider agreement.

I. In the event of noncompliance with the provider agreement and the department's guidelines, a CCN-P shall be subject to the sanctions specified in the terms of the provider agreement including, but not limited to:

1. corrective action plans;
2. monetary penalties;
3. temporary management; or
4. suspension and/or termination of the CCN-P's provider agreement.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: **§3503. Prepaid Model Responsibilities**

A. The CCN-P shall be responsible for the administration and management of its requirements and responsibilities under the provider agreement with the department, *CCN-P Policy and Procedure Guide* and any and all companion guides. This includes all contracts, employees, agents and anyone acting for or on behalf of the CCN-P.

1. No contract or delegation of responsibility shall terminate the legal obligation of the CCN-P to the department to assure that all requirements are carried out.

B. A CCN-P shall possess the expertise and resources to ensure the delivery of core benefits and services to members and to assist in the coordination of covered services, as specified in the terms of the provider agreement.

1. A CCN-P shall have written policies and procedures governing its operation as specified in the provider agreement, *CCN-P Policy and Procedure Guide* and companion guides.

C. The CCN-P shall accept enrollees in the order in which they apply without restriction, up to the enrollment capacity limits set under the provider agreement.

1. The CCN-P shall not discriminate against enrollees on the basis of race, gender, color, national origin, age, health status or need for health care services, and shall not use any policy or practice that has the effect of discriminating on any such basis.

D. A CCN-P shall be required to provide service authorization, referrals, coordination, and/or assistance in scheduling the covered services consistent with standards as defined in the Louisiana Medicaid State Plan and as specified in the terms of the provider agreement.

E. A CCN-P shall provide a chronic care management program as specified in the provider agreement

F. The CCN-P shall establish and implement a quality assessment and performance improvement program as specified in the terms of the provider agreement.

G. The CCN-P shall develop and maintain a utilization management program including policies and procedures with defined structures and processes as specified in the terms of the provider agreement.

H. A CCN-P shall develop and maintain effective continuity of care activities which ensure a continuum of care approach to providing health care services to members.

I. The CCN-P must have administrative and management arrangements or procedures, including a mandatory compliance plan, that are designed to guard against fraud and abuse.

J. A CCN-P shall maintain a health information system that collects, analysis, integrates and reports data as specified in the terms of the provider agreement and all CCN-P guides.

1. A CCN-P shall collect data on enrollees and provider characteristics and on services furnished to members through an encounter data system as specified in the provider agreement and all CCN-P guides.

K. A CCN-P shall be responsible for conducting routine provider monitoring to ensure:

1. continued access to care for Medicaid recipients; and
2. compliance with departmental and CCN-P policies and procedures.

L. The CCN-P shall not engage the services of a provider who is in non-payment status with the department or is excluded from participation in federal health care programs (i.e., Medicare, Medicaid, etc.).

M. Medical records shall be maintained in accordance with the terms and conditions of the provider agreement. These records shall be safeguarded in such a manner as to protect confidentiality and avoid inappropriate disclosure according to federal and state law.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: **§3505. Network Access Standards and Guidelines**

A. The CCN-P must maintain and monitor a provider network that is supported by written agreements and is sufficient to provide adequate access of healthcare to enrollees as required by federal law and the terms as set forth in the provider agreement. When designing this network, the CCN-P must take the federal regulations governing access standards into consideration as well as the specific requirements of the provider agreement as well as all policy and procedure guides and companion guides.

B. The CCN-P must provide for service delivery out-of-network for any core benefit or service not available in network. Further, the CCN-P must arrange for payment so that the Medicaid enrollee is not billed for this service.

C. The CCN-P must maintain a provider network and in-area referral providers in sufficient numbers, as determined by the department, to ensure that all of the required core benefits and services are available and accessible in a timely manner within the CCN-P's geographic service area(s) as approved by the department, in accordance with terms and conditions in the provider agreement.

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

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

§3507. Benefits and Services

A. Core benefits and services shall be furnished in an amount, duration, and scope that is no less than the amount, duration, and scope for the same services furnished to enrollees under Medicaid fee-for-service as specified in federal regulations.

1. Core benefits and services shall be defined as those health care services and benefits required to be provided to Medicaid CCN members enrolled in the CCN-P as specified under the terms of the provider agreement.

2. Covered services shall be defined as those health care services and benefits to which a Medicaid and LaCHIP eligible individual is entitled to under the Louisiana Medicaid State Plan.

B. The CCN-P:

1. shall ensure that services are sufficient in amount, duration, or scope to reasonably be expected to achieve the purpose for which the services are furnished;

2. may not arbitrarily deny or reduce the amount, duration, or scope of a required service because of diagnosis, type of illness, or condition of the member;

3. may place appropriate limits on a service:

a. on the basis of certain criteria, such as medical necessity; or

b. for the purpose of utilization control, provided the services furnished can reasonably be expected to achieve their purpose;

4. shall provide core benefits and services outlined and defined in the provider agreement and the *CCN-P Policy and Procedure Guide* and shall provide medically necessary and appropriate care to Medicaid CCN program members;

5. shall provide all of the core benefits and services consistent with, and in accordance with, the standards as defined in the Title XIX Louisiana Medicaid State Plan:

a. the CCN may exceed the limits as specified in the minimum service requirements outlined in the *CCN-P Policy and Procedure Guide*;

b. no medical service limitation can be more restrictive than those that currently exist under the Title XIX Louisiana Medicaid State Plan;

6. shall provide pregnancy-related services that are necessary for the health of the pregnant woman and fetus, or that have become necessary as a result of being pregnant and includes, but is not limited to prenatal care, delivery, postpartum care, and family planning services for pregnant women in accordance with federal regulations.

C. If the CCN-P elects not to provide, reimburse for, or provide coverage of a counseling or referral service because

of an objection on moral or religious grounds, the CCN-P must furnish information about the services it does not cover in accordance with §1932(b)(3)(B)(ii) of the Social Security Act and federal regulations by notifying:

1. the department with its PE 50 application or whenever it adopts the policy during the term of the provider agreement;

2. the potential enrollees before and during enrollment in the CCN-P;

3. enrollees within 90 days after adopting the policy with respect to any particular service; and

4. members through the inclusion of the information in the member's manual.

D. The following is a summary listing of the core benefits and services that a CCN-P is required to provide:

1. inpatient hospital services;

2. outpatient hospital services;

3. ancillary medical services;

4. organ transplant-related services;

5. family planning (not applicable to CCN operating under a moral and religious objection as specified in the provider agreement);

6. EPSDT/Well Child visits;

7. emergency medical services;

8. communicable disease services;

9. durable medical equipment and certain supplies;

10. prosthetics and orthotics;

11. emergency and non-emergency medical transportation;

12. home health services;

13. basic behavioral health services;

14. school-based health clinic services provided by the Office of Public Health certified school-based health clinics;

15. physician services;

16. maternity services;

17. chiropractic services; and

18. rehabilitation therapy services (physical, occupational, and speech therapies).

NOTE: This overview is not all inclusive. *CCN-P Policy and Procedure Guide*, policy transmittals, State Plan amendments, regulations, provider bulletins, provider manuals, fee schedules, and guides issued by the department are the final authority regarding services.

E. Transition Provision. In the event a member transitions from CCN included status to a CCN excluded status before being discharged from a hospital and/or rehabilitation facility, the cost of the entire admission will be the responsibility of the CCN entity. This is only one example and does not represent all situations in which the CCN is responsible for cost of services during a transition.

F. The core benefits and services provided to the members shall include, but are not limited to, those services specified in Appendix B of the provider agreement.

1. This table is not all inclusive. Policy transmittals, State Plan amendments, regulations, provider bulletins, provider manuals, and fee schedules, issued by the department are the final authority regarding services.

G. Excluded Services

1. The following services will continue to be reimbursed by the current Medicaid Program on a fee-for-service basis. The CCN shall provide any referrals that may be required for these services. The department shall have the right to incorporate these services at a later date if the

PMPM rates have been adjusted to incorporate the cost of such service. Excluded services include:

- a. services provided through the Early-Steps Program (IDEA Part C Program services);
- b. dental services;
- c. intermediate care facility services for persons with developmental disabilities;
- d. hospice services;
- e. personal care services (EPSDT and long-term);
- f. nursing facility services;
- g. pharmacy services;
- h. school-based Individualized Education Plan Services provided by a school district and billed through the intermediate school district, or school-based services funded with certified public expenditures;
- i. home and community-based waiver services;
- j. specialized behavioral health; and
- k. targeted case management services.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: **§3509. Reimbursement Methodology**

A. The department, or its fiscal intermediary, shall make monthly prepaid payments to the CCN-P based on a per member, per month rate.

1. Actuarially sound rates will be determined by the department acting on the advice of its actuaries. It is intended that rates will initially be set using historical fee-for-service data, with appropriate adjustments for the expected impact of managed care on the utilization of the various types of services (some increases and some reductions) and for the expected cost of CCN-P administration and overhead.

2. As the Coordinated Care Network Program matures and fee-for-service data is no longer available, there will be increasing reliance on encounter data and/or financial data to set future rates, subject to comparable adjustments.

3. Prepaid payments will be set on the basis of health status-based risk adjustments.

a. The health risk of the Medicaid enrollees enrolled in the CCN-P will be measured using a nationally-recognized risk-assessment model.

b. Utilizing this information, the base prepaid rates will be adjusted to account for the health risk of the enrollees in each CCN-P relative to the overall population being measured.

c. Prepaid rate risk adjustments will begin three months after the initial program implementation.

d. The health risk of the members and associated CCN-P risk scores, as well as the prepaid payments, will be updated periodically to reflect changes in risk over time.

4. A CCN-P shall be reimbursed a one-time supplemental lump sum payment for each obstetrical delivery in the amount determined by the department's actuary.

a. The kick payment is intended to cover the cost of prenatal care, the delivery event, and post partum care. Payment will be paid to the CCN-P upon submission of satisfactory evidence of the occurrence of a delivery.

b. The hospital shall accurately input the delivery event into the Louisiana Electronic Event Registration System (LEERS) as evidence that a delivery event has taken

place in order for a kick payment request to be initiated to the department's fiscal intermediary for payment to the CCN-P.

c. Only one maternity kick payment will be made per delivery event. Therefore, multiple births during the same delivery will still result in one maternity kick payment being paid.

d. The maternity kick payment will be paid for both live and still births.

B. The CCN-P must agree to accept the PMPM rate as payment-in-full from the department and agree not to seek additional payment from a member for any unpaid cost.

C. The PMPM rate does not include graduate medical education payments or disproportionate share hospital payments. These payments will be made to applicable providers outside the PMPM rate by the department.

D. A CCN-P shall assume 100 percent liability for any expenditure above the prepaid premium and may retain any excess.

E. A CCN-P shall provide a separate schedule reporting the CCN-P's medical loss ratio for services provided and payment received under the provider agreement based upon the reporting guidelines issued by the department.

1. The department shall review the CCN-P's business plan and if the medical loss ratio is less than or above the percentages set in the terms of the provider agreement, the CCN-P may be subject to sanctions.

F. Any cost sharing imposed on Medicaid members must be in accordance with the federal regulations governing cost sharing and cannot exceed the amounts reflected in the Louisiana Medicaid State Plan, but the amounts can be less than the cost sharing levels in the State Plan.

G. The department may adjust the PMPM rate, during the term of the provider agreement, based on:

1. the health status-risk adjustment as determined by the department acting on the advice of its actuaries;

2. the inclusion of covered Medicaid services not incorporated in the PMPM; and/or

3. Legislative appropriations and budgetary constraints.

H. Any adjusted rates must continue to be actuarially sound and will require an amendment to the provider agreement. The department will provide the CCN with three months advance notice of any major revision to the risk-adjustment methodology.

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

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

§3509. Prompt Pay of Claims

A. All contracts executed by the CCN-P shall comply with the terms in the provider agreement. Requirements shall include at a minimum:

1. the name and address of the official payee to whom payment shall be made;

2. the full disclosure of the method and amount of compensation or other consideration to be received from the CCN-P;

3. the prompt submission of information needed to make payment;

4. that the CCN-P shall pay 90 percent of all clean claims from each provider type within 30 days of the date of receipt;

5. that the CCN-P shall pay 99 percent of all clean claims from within 90 days of the date of receipt.

6. that the date of receipt is the date that the CCN receives the claim, as indicated by the date stamp on the claim.

7. that the date of payment is the date of the check or other form of payment;

8. that the CCN and its providers may, by mutual agreement, establish an alternative payment schedule which must be stipulated in the contract;

9. that contractors must submit all claims for payment no later than 12 months from the date of service; and

10. that the provider shall accept payment made by the CCN as payment-in-full for core benefits and services provided and shall not solicit or accept any surety or guarantee of payment from the department or the member.

a. The term "member" shall include the patient, parent(s), guardian, spouse or any other legally responsible person of the member being served.

B. The CCN-P shall make payments to its network providers, and out-of-network providers, subject to conditions outlined in the provider agreement. Failure to make these payments may result in sanctions as outlined in the provider agreement.

C. The CCN-P shall not assign its rights to receive the PMPM payment to any other entity.

1. This does not prevent the CCN-P from arranging sub-capitation payments to its network providers, with the exception of federally qualified health centers or rural health clinics, as the CCN is required to reimburse these providers according to the Medicaid prospective payment schedule rate in effect on the date of service.

2. The department, at its option, may also make payment to a fiscal intermediary hired by the CCN-P.

D. In the event that an erroneous payment is made to the CCN-P, all parties agree that reconciliation will occur.

E. The CCN-P, and any of its subcontractors, shall retain any and all supporting financial information and documents that are adequate to ensure that payment is made in accordance with applicable federal and state laws.

1. Any such documents shall be retained for a period of at least six years or until the final resolution of all litigation, claims, financial management reviews, or audits pertaining to the provider agreement.

2. There shall not be any restrictions on the right of the state and federal government to conduct inspections and/or audits as deemed necessary to assure quality, appropriateness or timeliness of services and reasonableness of costs.

F. If an error or overcharge is discovered by the department, it will be handled in accordance with the terms and conditions of the provider agreement.

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

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

Chapter 37. Grievance and Appeal Process

Subchapter A. Coordinated Care Network Shared Savings Model

§3701. Introduction

A. A coordinated care network shared savings model (CCN-S) shall establish and maintain a procedure for the receipt and prompt internal resolution of all grievances

pursuant to applicable state and federal laws as well as the terms and conditions of the provider agreement and all guides.

1. All appeals received by the CCN-S must be logged in and directly forwarded to the state agency responsible for conducting the fair hearing process. The CCN-S must assist the department in handling appeals submitted by its members through the state fair hearing process.

2. The CCN-S shall not have any processes that impede the start of the state fair hearing process. The CCN-S shall work with the department toward simultaneous resolution of any appeals brought to their attention.

3. The CCN-S shall not create barriers to timely due process. The CCN-S shall be subject to sanctions if it is determined by the department that the CCN-S has created barriers to timely due process, and/or if 10 percent or higher of the CCN decisions referred to a state fair hearing level within a 12-month period have been reversed or otherwise resolved in favor of the member.

B. The CCN-S's grievance procedures and any changes thereto must be approved in writing by the department prior to their implementation and must include, at a minimum, the requirements set forth herein.

1. The CCN-S shall refer all members who are dissatisfied, in any respect, with the CCN-S or its contractor to the CCN-S's designee authorized to review and respond to grievances and require corrective action.

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

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

§3703. Definitions

Action—a termination, suspension, or reduction (which includes denial of a service as specified in federal regulations) of Medicaid eligibility or covered services.

Appeal—a request for review of an action is defined in this section.

Grievance—an expression of dissatisfaction about any matter other than an action. Possible subjects for grievances include, but are not limited to, the quality of care or services provided and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the member's rights. The term is also used to refer to the overall system that includes CCN-S level grievances and access to a fair hearing.

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

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

§3705. General Provisions

A. The CCN-S must have a system in place for members that include a grievance process and access to the fair hearing process as described in federal regulations and state laws.

B. Authority to File. A member or a representative of his/her choice may file a grievance and/or request a state fair hearing in response to an action. A CCN-S provider, acting on behalf of the member with the member's written consent, may file a grievance or request a state fair hearing on behalf of a member in response to an action.

1. Filing Timeframe. The member must be allowed 30 calendar days from the date on the CCN-S's notice of action to request a state fair hearing. Within this timeframe the

member, or a representative or provider acting on their behalf, may request a state fair hearing.

2. Filing Procedures

a. The member may file a grievance either orally or in writing with the CCN-S.

b. The member, or a representative or provider acting on the member's behalf and with the member's written consent, may file for a state fair hearing with the designated state entity either orally or in writing; unless an expedited resolution is requested, which must follow an oral filing with a written, signed appeal.

C. Grievance Notice and Fair Hearing Procedures

1. The CCN-S shall ensure that all members are informed of the state fair hearing process and of the CCN-S's grievance procedures.

a. The CCN-S shall provide a member handbook to each member that shall include descriptions of the CCN-S's grievance procedures.

b. Forms to file grievances, concerns or recommendations to the CCN-S shall be available through the CCN-S, and must be provided to the member upon request. The CCN shall make all forms easily available on the CCN's website.

D. Grievance Records

1. A copy of an oral grievance log shall be retained for six years. If any litigation, claim negotiation, audit, or other action involving the documents or records has been started before the expiration of the six year period, the records shall be retained until completion of the action and resolution of issues which arise from it or until the end of the regular six-year period, whichever is later.

E. Grievance Reports

1. The CCN-S shall provide an electronic report of the grievances to the department on a monthly basis in accordance with the requirements outlined in the provider agreement, which will include, but is not limited to:

- a. the member's name and Medicaid identification number;
- b. summary of grievances;
- c. date of filing;
- d. current status;
- e. resolutions; and
- f. resulting corrective action.

F. All state fair hearing requests shall be sent directly to the state designated entity. However, if the CCN-S receives a request for a state fair hearing, the CCN-S will be responsible for promptly forwarding the request to the designated state fair hearing entity.

G. The department has the right to make final decisions regarding the resolution of any grievance.

H. Information to Providers and Contractors

1. The CCN-S must provide the information about the grievance system to all providers and contractors at the time that they enter into a contract with the CCN-S as specified in the provider agreement and the *CCN-S Policy and Procedure Guide*.

I. Recordkeeping and Reporting Requirements

1. Reports of grievances and resolutions shall be submitted to the department as specified by the department. The CCN-S shall not modify its grievance procedures without the prior written approval of the department.

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

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

§3707. Handling of Grievances and Fair Hearings

A. In handling grievances, the CCN must meet the following requirements:

1. give members any reasonable assistance in completing forms and taking other procedural steps. This includes, but is not limited to, providing interpreter services and toll-free telephone numbers that have adequate TTY/TTD and interpreter capability; and

2. acknowledge receipt of each grievance and appeal.

B. Resolution and Notification. The CCN must dispose of a grievance and provide notice, as expeditiously as the member's health conditions require, within the timeframes established in the provider agreement.

1. For standard disposition of a grievance and notice to the affected parties, the established timeframe is 90 days from the day the CCN receives the grievance.

C. Extension of Timeframes. The CCN-S may extend the timeframes for disposition of a grievance up to 14 calendar days under the following circumstances:

1. the member request the extension; or

2. The CCN-S shows (to the satisfaction of the department or its designee, upon request) that there is need for additional information and how the delay is in the member's interest.

D. If the CCN-S extends the timeframes for any extension not requested by the member, it must give the member written notice of the reason for the delay.

1. The CCN shall use the method and format specified in the provider agreement for notifying a member of the disposition of a grievance.

E. Requirements for State Fair Hearings

1. The member may request a state fair hearing within 30 days from the date of the notice of action following the resolution of the grievance.

2. The parties to the state fair hearing include the CCN-S as well as the member and his/her representative or the representative of a deceased member's estate.

F. Concurrent Appeal Review

1. The CCN-S shall conduct an internal concurrent review for which a state fair hearing was requested. The purpose of the concurrent appeal review is to expedite the resolution of the appeal to the satisfaction of the member, if possible, prior to the state fair hearing.

2. The CCN-S shall notify the state fair hearing designated entity of concurrent appeal reviews resulting in a resolution in favor of the member.

3. The concurrent appeal review shall not delay the CCN's submission of an appeal to the state fair hearing entity, nor shall it not delay the review of the appeal in the state fair hearing.

G. Special Requirements for Appeals

1. All appeals by members or on their behalf shall be filed with the state designated entity. However, if the CCN-S receives a state fair hearing request, the request shall be forwarded directly to the designated entity that will conduct the state fair hearing.

2. The CCN-S's staff shall be educated concerning the importance of the appeal procedures and the rights of the member and providers.

3. The appropriate individual or body within the CCN-S that made the decision that is being appealed shall be identified. This individual shall prepare the summary of evidence and be available for the appeal, either in person or by telephone.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: §3709. **Notice of Action**

A. Language and Format Requirements

1. The notice of action will only be sent by the CCN-S in certain circumstances as specified by the department.

2. The notice must be in writing and must meet the language and format requirements of federal regulations in order to ensure ease of understanding.

B. Content of Notice. The notice must explain the following:

1. the action the CCN-S or its contractor has taken or intends to take;

2. the reasons for the action;

3. the member's right to request a state fair hearing and a number to call for free legal advice;

4. the procedures for exercising the rights specified in this Section;

5. the circumstances under which expedited resolution is available and how to request it;

6. the member's right to have services continue pending resolution of the appeal, the procedures to make such a request, and the circumstances under which the member may be required to pay for the costs of these services; and

7. a statement in Spanish and Vietnamese that translation assistance is available at no cost and the toll free telephone number to call to receive translation of the notice.

C. Notice Timeframes. The CCN-S must mail the notice within the following timeframes:

1. for termination, suspension, or reduction of previously authorized Medicaid-covered services, at least 10 days before the date of action (except as permitted under federal regulations);

2. for standard service authorization decisions that deny or limit services, as expeditiously as the member's health condition requires and within 14 calendar days following receipt of the request for service. A possible extension of up to 14 additional calendar days may be granted under the following circumstances:

a. the member, his/her representative or a provider acting on his/her behalf, requests an extension; or

b. the CCN-S justifies (to the department upon request) that there is a need for additional information and that the extension is in the member's interest;

3. on the date the timeframe for service authorization expires.

D. If the CCN-S extends the timeframe in accordance with this Section, it must:

1. give the member written notice of the reason for the decision to extend the timeframe;

2. inform the member of the right to file a grievance if he/she disagrees with that decision; and

3. issue and carry out its determination as expeditiously as the member's health condition requires, but no later than the date that the extension expires.

E. For expedited service authorization decisions where a provider indicates, or the CCN-S determines, that following the standard timeframe could seriously jeopardize the member's life or health or ability to attain, maintain, or regain maximum function, the CCN-S must make an expedited authorization decision.

1. A notice must be furnished as expeditiously as the member's health condition requires, but no later than three working days after receipt of the request for service.

2. The CCN-S may extend the three working days time period by up to 14 calendar days if the member requests an extension or if the CCN-S justifies (to the department upon request) a need for additional information and how the extension is in the member's interest.

F. The department shall conduct random reviews to ensure that members are receiving such notices in a timely manner.

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

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

§3713. **Continuation of Services during State Fair Hearing Process**

A. If the member requests a hearing before the date of action or within 10 days from the postmark of the notice, the department may not terminate or reduce services until a decision is rendered after the hearing unless:

1. it is determined at the hearing that the sole issue is one of federal or state law or policy; and

2. the department or its designee promptly informs the member in writing that services are to be terminated or reduced pending the hearing decision.

B. Member Liability for Services

1. If the final resolution of the appeal is adverse to the member, the department may recover the cost of the services furnished to the member during the pending appeal process in accordance with federal regulations.

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

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

§3715. **Effectuation of Reversed Appeal Resolutions**

A. Discontinuation of Services during the State Fair Hearing Process

1. If the CCN-S or the state fair hearing entity reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, the CCN must authorize the disputed services promptly and as expeditiously as the member's health condition requires.

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

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

Subchapter B. Coordinated Care Network Prepaid Model

§3721. **Introduction**

A. A Coordinated Care Network Prepaid Model (CCN-P) must have a grievance system that complies with federal regulations. The CCN-P shall establish and maintain a procedure for the receipt and prompt internal resolution of all grievances and appeals in accordance with all applicable state and federal laws and as specified in the provider agreement and all guides.

B. The CCN-P's grievance and appeals procedures, and any changes thereto, must be approved in writing by the department prior to their implementation and must include, at a minimum, the requirements set forth herein.

1. The CCN-P shall refer all members who are dissatisfied, in any respect, with the CCN-P or its contractor to the CCN-P's designee authorized to review and respond to grievances and require corrective action.

2. The member must exhaust the CCN-P's internal grievance/appeal procedures prior to accessing the state fair hearing process or filing a grievance with the department or its designee.

C. The CCN shall not create barriers to timely due process. The CCN shall be subject to sanctions if it is determined by the department that the CCN has created barriers to timely due process, and/or if 10 percent or higher of the grievances and/or appeals of CCN decisions appealed to a state fair hearing level within a 12-month period have been reversed or otherwise resolved in favor of the member.

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

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

§3723. Definitions

Action—the denial or limited authorization of a requested service, including:

1. the type or level of service;
2. reduction, suspension, or termination of a previously authorized service;
3. denial, in whole or in part, of payment for a service;
4. failure to provide services in a timely manner as specified in the provider agreement;
5. failure of the CCN-P to act within the timeframes provided in this Subchapter; or
6. for a resident of a rural area with only one CCN-P, the denial of a Medicaid member's request to exercise his/her right to obtain services outside the CCN-P as specified in federal regulations.

Appeal—a request for review of an action as the term is defined in this Section.

Grievance—an expression of dissatisfaction about any matter other than an action as that term is defined in this Section. The term is also used to refer to the overall system that includes grievances and appeals handled at the CCN-P level. Possible subjects for grievances include, but are not limited to, the quality of care or services provided, and aspects of interpersonal relationships such as rudeness of a provider or employee, or failure to respect the member's rights.

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

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

§3725. General Provisions

A. The CCN-P must have a system in place for members that include a grievance process, an appeal process, and access to the state fair hearing process once the CCN-P's appeal process has been exhausted.

B. Filing Requirements

1. Authority to file. A member or a representative of his/her choice may file a grievance and a CCN-P level appeal. Once the CCN-P's appeals process has been

exhausted, a member or his/her representative may request a state fair hearing.

a. A CCN-P provider, acting on behalf of the member and with his/her written consent, may file an appeal. A CCN-P provider may file a grievance or request a state fair hearing on behalf of a member.

2. Filing Timeframes. The member, or a representative or provider acting on the member's behalf and with his/her written consent, may file an appeal within 30 calendar days from the date on the CCN-P's notice of action.

3. Filing Procedures

a. The member may file a grievance either orally or in writing with the CCN-P.

b. The member, or a representative or provider acting on the member's behalf, may file an appeal either orally or in writing, unless an expedited resolution is requested, which must follow an oral filing with a written, signed appeal.

C. Grievance Notice and Appeal Procedures

1. The CCN-P shall ensure that all members are informed of the state fair hearing process and of the CCN-P's grievance procedures.

a. The CCN-P shall provide a member handbook to each member that shall include descriptions of the CCN-P's grievance procedures.

b. Forms to file grievances, appeals, concerns or recommendations to the CCN-P shall be available through the CCN-P, and must be provided to the member upon request. The CCN shall make all forms easily available on the CCN's website.

D. Grievance and Appeals Records

1. The CCN-P must maintain records of grievances and appeals. A copy of the grievance logs and records of the disposition of appeals shall be retained for six years. If any litigation, claim negotiation, audit, or other action involving the documents or records has been started before the expiration of the six-year period, the records shall be retained until completion of the action and resolution of issues which arise from it or until the end of the regular six-year period, whichever is later.

E. Grievance and Appeal Reports

1. The CCN-P shall provide an electronic report of the grievances and appeals to the department on a monthly basis in accordance with the requirements specified by the department, which will include, but is not be limited to:

- a. the member's name and Medicaid identification number;
- b. summary of grievances and appeals;
- c. date of filing;
- d. current status;
- e. resolutions; and
- f. resulting corrective action.

F. The CCN-P will be responsible for promptly forwarding any adverse decisions to the department for further review and/or action upon request by the department or the CCN-P member.

G. The department may submit recommendations to the CCN-P regarding the merits or suggested resolution of any grievance or appeal.

H. Information to Providers and Contractors

1. The CCN-P must provide the information about the grievance system as specified in federal regulations to all

providers and contractors at the time they enter into a contract.

I. Recordkeeping and Reporting Requirements

1. Reports of grievances and resolutions shall be submitted to the department as specified by the department. The CCN-P shall not modify the grievance procedure without the prior written approval of the department.

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

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

§3727. Handling of Grievances and Appeals

A. In handling grievances and appeals, the CCN-P must meet the following requirements:

1. give members any reasonable assistance in completing forms and taking other procedural steps. This includes, but is not limited to, providing interpreter services and toll-free telephone numbers that have adequate TTY/TTD and interpreter capability;

2. acknowledge receipt of each grievance and appeal;

3. ensure that the individuals who make decisions on grievances and appeals are individuals who:

a. were not involved in any previous level of review or decision-making; and

b. if deciding on any of the following issues, are health care professionals who have the appropriate clinical expertise, as determined by the department, in treating the member's condition or disease:

i. an appeal of a denial that is based on lack of medical necessity;

ii. a grievance regarding denial of expedited resolution of an appeal; or

iii. a grievance or appeal that involves clinical issues.

B. Special Requirements for Appeals

1. The process for appeals must:

a. provide that oral inquiries seeking to appeal an action are treated as appeals (to establish the earliest possible filing date for the appeal) and must be confirmed in writing, unless the member or the provider requests expedited resolution;

b. provide the member a reasonable opportunity to present evidence and allegations of fact or law in person as well as in writing. The CCN-P must inform the member of the limited time available for this in the case of expedited resolution;

c. provide the member and his/her representative an opportunity, before and during the appeals process, to examine the member's case file, including medical records and any other documents and records considered during the appeals process; and

d. include, as parties to the appeal:

i. the member and his/her representative; or

ii. the legal representative of a deceased member's estate.

2. The CCN-P's staff shall be educated concerning the importance of the grievance and appeal procedures and the rights of the member and providers.

3. The appropriate individual or body within the CCN-P having decision making authority as part of the grievance and appeal procedures shall be identified.

4. Failure to Make a Timely Decision

a. Appeals shall be resolved no later than the stated time frames and all parties shall be informed of the CCN-P's decision.

b. If a determination is not made by the above time frames, the member's request will be deemed to have been approved as of the date upon which a final determination should have been made.

5. The CCN shall inform the member that he/she may seek a state fair hearing if the member is not satisfied with the CCN-P's decision in response to an appeal.

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

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

§3729. Notice of Action

A. Language and Format Requirements. The notice must be in writing and must meet the language and format requirements of federal regulations in order to ensure ease of understanding.

B. Content of Notice. The notice must explain the following:

1. the action the CCN-P or its contractor has taken or intends to take;

2. the reasons for the action;

3. the member's or the provider's right to file an appeal with the CCN;

4. the member's right to request a state fair hearing after the CCN-P's appeal process has been exhausted;

5. the procedures for exercising the rights specified in this Section;

6. the circumstances under which expedited resolution is available and the procedure to request it; and

7. the member's right to have services continue pending resolution of the appeal, the procedure to make such a request, and the circumstances under which the member may be required to pay the costs of these services.

C. Notice Timeframes. The CCN-P must mail the notice within the following timeframes:

1. for termination, suspension, or reduction of previously authorized Medicaid-covered services, at least 10 days before the date of action except as permitted under federal regulations;

2. for denial of payment, at the time of any action taken that affects the claim; or

3. for standard service authorization decisions that deny or limit services, as expeditiously as the member's health condition requires and within 14 calendar days following receipt of the request for service. A possible extension of up to 14 additional calendar days may be granted under the following circumstances:

a. the member, or his/her representative or a provider acting on the member's behalf, requests an extension; or

b. the CCN-P justifies (to the department upon request) that there is a need for additional information and that the extension is in the member's interest.

D. If the CCN-P extends the timeframe in accordance with this Section, it must:

1. give the member written notice of the reason for the decision to extend the timeframe and inform the member of the right to file a grievance if he/she disagrees with that decision; and

2. issue and carry out its determination as expeditiously as the member's health condition requires, but no later than the date the extension expires.

F. For service authorization decisions not reached within the timeframes specified in this Section, this constitutes a denial and is thus an adverse action on the date that the timeframes expire.

G. For expedited service authorization decisions where a provider indicates, or the CCN-P determines, that following the standard timeframe could seriously jeopardize the member's life or health or ability to attain, maintain, or regain maximum function, the CCN-P must make an expedited authorization decision.

1. A notice must be furnished as expeditiously as the member's health condition requires, but no later than three working days after receipt of the request for service.

2. The CCN-P may extend the three working days time period by up to 14 calendar days if the member requests an extension or if the CCN-P justifies (to the department upon request) that there is a need for additional information and that the extension is in the member's interest.

H. The department shall conduct random reviews to ensure that members are receiving such notices in a timely manner.

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

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

§3731. Resolution and Notification

A. The CCN-P must dispose of a grievance, resolve each appeal, and provide notice as expeditiously as the member's health condition requires, within the timeframes established in this Section.

B. Specific Timeframes

1. For standard disposition of a grievance and notice to the affected parties, the timeframe is established as 90 days from the day the CCN-P receives the grievance.

2. For standard resolution of an appeal and notice to the affected parties, the timeframe is established as 30 calendar days from the day the CCN-P receives the appeal.

3. For expedited resolution of an appeal and notice to affected parties, the timeframe is established as three working days after the CCN-P receives the appeal.

C. Extension of Timeframes

1. The CCN-P may extend the timeframes by up to 14 calendar days under the following circumstances.

a. The member requests the extension; or

b. The CCN-P shows to the satisfaction of the department, upon its request, that there is need for additional information and that the delay is in the member's interest.

D. If the CCN-P extends the timeframes for any extension not requested by the member, it must give the member written notice of the reason for the delay.

E. Format of Notice

1. The CCN-P shall follow the method specified in the policy and procedure guide to notify a member of the disposition of a grievance.

2. For all appeals, the CCN-P must provide written notice of disposition.

3. For notice of an expedited resolution, the CCN-P must also make reasonable efforts to provide oral notice.

F. Content of Notice of Appeal Resolution. The written notice of the resolution must include, at a minimum, the following information:

1. the results of the resolution process and the date it was completed;

2. for appeals not resolved wholly in favor of the members:

a. the right to request a state fair hearing and the procedure to make the request;

b. the right to request to receive services during the hearing process and the procedure to make such a request; and

c. that the member may be held liable for the cost of those services if the hearing decision upholds the CCN-P's action.

F. Requirements for State Fair Hearings

1. The department shall comply with the federal regulations governing fair hearings. The CCN-P shall comply with all requirements as outlined in the provider agreement and the *CCN-P Policy and Procedure Guide*.

2. If the member has exhausted the CCN-P level appeal procedures, the member may request a state fair hearing within 30 days from the date of the CCN-P's notice of resolution.

3. The parties to the state fair hearing include the CCN-P as well as the member and his/her representative or the representative of a deceased member's estate.

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

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

§3733. Expedited Resolution of Appeals

A. The CCN-P must establish and maintain an expedited review process for appeals when the CCN-P determines (either from a member's request or indication from the provider making the request on the member's behalf or in support of the member's request) that taking the time for a standard resolution could seriously jeopardize the member's life or health or ability to attain, maintain, or regain maximum function.

B. Punitive Action. The CCN-P must ensure that punitive action is not taken against a provider who requests an expedited resolution or supports a member's appeal.

C. If the CCN-P denies a request for expedited resolution of an appeal, it must:

1. transfer the appeal to the timeframe for standard resolution in accordance with the provisions of this Subchapter; and

2. make reasonable efforts to give the member prompt oral notice of the denial and follow up within two calendar days with a written notice.

D. This decision (i.e., the denial of a request for expedited resolution of an appeal) does not constitute an action or require a notice of action. The member may file a grievance in response to this decision.

E. Failure to Make a Timely Decision

1. Appeals shall be resolved no later than the established timeframes and all parties shall be informed of the CCN-P's decision. If a determination is not made by the established timeframes, the member's request will be deemed to have been approved as of the date upon which a final determination should have been made.

F. The CCN-P is required to follow all standard appeal requirements for expedited requests except where differences are specifically noted in the requirements for expedited resolution.

1. The member or provider may file an expedited appeal either orally or in writing. No additional follow-up may be required.

2. The CCN-P shall inform the member of the limited time available for the member to present evidence and allegations of fact or law, in person and in writing, in the case of expedited resolution.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: §3735. Continuation of Services during the Pending

CCN-P Appeal or State Fair Hearing

A. As used in this Section, the term “timely filing” means filing on or before the later of the following:

1. within 10 calendar days of the CCN-P’s mailing of the notice of action; or
2. the intended effective date of the CCN-P’s proposed action.

B. Continuation of Benefits. The CCN-P must continue the member’s benefits if:

1. the member or the provider files the appeal timely;
2. the appeal involves the termination, suspension, or reduction of a previously authorized course of treatment;
3. the services were ordered by an authorized provider;
4. the original period covered by the original authorization has not expired; and
5. the member requests extension of benefits.

C. Duration of Continued or Reinstated Benefits

1. If, at the member’s request, the CCN-P continues or reinstates the member’s benefits while the appeal is pending, the benefits must be continued until one of following occurs:

- a. the member withdraws the appeal;
- b. 10 calendar days pass after the CCN-P mails the notice providing the resolution of the appeal against the member, unless the member has requested a state fair hearing with continuation of benefits, within the 10-day timeframe, until a state fair hearing decision is reached;
- c. a state fair hearing entity issues a hearing decision adverse to the member; or
- d. the time period or service limits of a previously authorized service has been met.

D. Member Liability for Services

1. If the final resolution of the appeal is adverse to the member, the CCN-P may recover from the member the cost of the services furnished to the member while the appeal is pending, to the extent that they were furnished solely because of the requirements of this Section, and in accordance with federal regulations.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: §3737. Effectuation of Reversed Appeal Resolutions

A. Provision of Services during the Appeal Process

1. If the CCN-P or the state fair hearing entity reverses a decision to deny, limit, or delay services that were not furnished while the appeal was pending, the CCN-P must

authorize or provide the disputed services promptly and as expeditiously as the member’s health condition requires.

B. If the CCN-P or the state fair hearing entity reverses a decision to deny authorization of services, and the member received the disputed services while the appeal was pending, the CCN-P must pay for those services in accordance with the provider agreement.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36: **Chapter 39. Sanctions for Coordinated Care Networks §3901. Sanctions**

A. The CCN agrees to be subject to the sanctions specified in the terms and conditions of the provider agreement, policy and procedures guides and all companion guides. The specific grounds for sanctions and respective sanctions shall be set forth within the provider agreement.

1. Sanctions may include, but are not limited to:

- a. corrective action plans;
- b. monetary penalties;
- c. temporary management; and
- d. suspension and/or termination of the CCN’s Medicaid provider enrollment agreement (PE-50).

B. It shall be at the department’s sole discretion as to the proper administrative sanction that will be imposed.

C. The department will notify the CCN through a notice of corrective action when the department or its designee determines that the CCN is deficient or non-compliant with requirements (excluding causes for intermediate sanctions and termination) of the provider agreement.

D. The determination of deficiency and/or non-compliance with such requirements is at the sole discretion of the department.

E. The CCN shall submit a corrective action plan (CAP) to the department, within the timeframe specified in the notice, for approval. The CAP shall delineate the steps and timeline for correcting deficiencies and/or non-compliance issues identified in the notice.

F. The department shall impose monetary penalties and/or sanctions on the CCN for a deficient CAP. A CAP is deficient when it is not submitted within the notice of corrective action timeline requirements and/or when the CCN and/or its contractor(s) fail to implement and/or follow the CAP.

G. The department, as specified in the provider agreement, has the right to enforce monetary penalties against the CCN for certain conduct.

H. Monetary Penalties

1. The CCN may be required to pay monetary penalties to the department in the amounts specified in the provider agreement and/or the *CCN Policy and Procedure Guide* for failure to timely and accurately comply with reporting requirements and for deficient deliverables as set forth in the provider agreement, policy and procedures guide and companion guides.

I. Intermediate Sanctions

1. The department may impose any of the following sanctions if it determines that the CCN has violated any provision of the provider agreement, or the applicable statutes or rules governing CCNs.

2. The department shall notify the CCN and CMS in writing of its intent to impose sanctions and explain the

process for the CCN to employ the dispute resolution process as described in the provider agreement. Sanctions shall be in accordance with §1932 of the Social Security Act (42 U.S.C. §1396u-2) and federal regulations and may include any of the following:

a. suspension of payment for members enrolled in the CCN after the effective date of the sanction and until CMS and/or the department is satisfied that the reason for imposition of the sanction no longer exists and is not likely to recur. This violation may result in recoupment of payments;

b. imposition of a fine of up to \$25,000 for each marketing/enrollment violation, in connection with any one audit or investigation;

c. termination pursuant to the terms of the provider agreement;

d. non-renewal of the provider agreement;

e. suspension of auto-enrollment;

f. appointment of temporary management;

g. civil money penalties in accordance with §1932 of the Social Security Act (42 USC § 1396u-2);

h. withhold up to 30 percent of a CCN's monthly PMPM payment;

i. permit individuals enrolled in the CCN to disenroll without cause;

j. suspend or default all enrollment after the date that CMS or the department notifies the CCN of an occurrence under §§1903(m) or 1932(e) of the Social Security Act;

k. termination of the provider agreement if the CCN has failed to meet requirements of §§1903(m), 1905(t)(3) or 1932(e) of the Social Security Act and offer the CCN-P's Medicaid members an opportunity to enroll with other CCNs;

l. imposition of sanctions pursuant to §1932(e)(B) of the Social Security Act if the CCN does not provide abortion services as provided under the provider agreement;

m. imposition of a fine of up to \$25,000 for each occurrence of the CCN's failure to substantially provide medically necessary items and services that are required to be provided a member covered under the provider agreement;

n. imposition of a fine of up to \$15,000 per individual not enrolled and up to a total of \$100,000 per each occurrence, when the CCN acts to discriminate among members on the basis of their health status or their requirements for health care services;

o. imposition of a fine of up to \$25,000 or double the amount of the excess charges, whichever is greater for charging premiums/co-payments in excess of the amounts permitted under the Medicaid Program;

p. imposition of sanctions as outlined in the *CCN Policy and Procedure Guide* if the CCN fails to comply with the physician incentive plan requirements or other sanctions set forth in the *CCN Policy and Procedure Guide*; or

q. imposition of sanctions as outlined above if the CCN misrepresents or falsifies information that it furnishes to CMS, to the state or to a member, potential member or health care provider.

J. Duration of Sanction

1. Unless the duration of a sanction is specified, a sanction will remain in effect until the department is

satisfied that the basis for imposing the sanction has been corrected. The department will notify CMS when a sanction has been lifted.

K. Termination for Cause

1. Issuance of Notice of Termination

a. The department may terminate the provider agreement when it determines the CCN has failed to perform, or violates, substantive terms of the provider agreement and the *CCN Policy and Procedure Guide* or fails to meet applicable requirements in §§1903(m), 1905(t) or 1932 of the Social Security Act in accordance with the provisions of the provider agreement.

b. The department will provide the CCN with a timely written Notice of Intent to Terminate notice. In accordance with federal regulations, the notice will state:

i. the nature and basis of the sanction,

ii. pre-termination hearing and dispute resolution conference rights; and

iii. the time and place of the hearing.

c. The termination will be effective no less than 30 calendar days from the date of the notice.

d. The CCN may, at the discretion of the department, be allowed to correct the deficiencies within the 30 calendar day notice period, unless other provisions in this Section demand otherwise, prior to the issue of a Notice of Termination.

L. Termination Due to Serious Threat to Health of Members

1. The department may terminate the provider agreement immediately if it is determined that actions by the CCN or its contractor(s) pose a serious threat to the health of members enrolled in the CCN.

2. The CCN members will be given an opportunity to enroll in another CCN (if there is capacity) or move to fee-for-service.

M. Termination for Insolvency, Bankruptcy, Instability of Funds

1. The CCN's insolvency or the filing of a bankruptcy petition by or against the CCN shall constitute grounds for termination for cause.

N. Termination for Ownership Violations

1. The CCN is subject to termination unless the CCN can demonstrate changes of ownership or control when a person with a direct or indirect ownership interest in the CCN (as defined in the PE-50) has:

a. been convicted of a criminal offense as cited in §1128(a), (b)(1) or (b)(3) of the Social Security Act, in accordance with federal regulations;

b. had civil monetary penalties or assessment imposed under §1128(A) of the Social Security Act; or

c. been excluded from participation in Medicare or any state health care program.

O. Termination Due to Conversion from CCN-S Provider Type to CCN-P Provider Type

1. After a minimum of 12 months of provision of services, the CCN may terminate the provider agreement for cause when the CCN declares that it will convert from a Shared Savings Model to a Prepaid Model. The CCN is required to meet the requirements for termination for cause as specified in the provider agreement. All members of the CCN-S will be notified of termination of the CCN-S and

given the opportunity to select a newly converted CCN-P or another CCN-P.

P. Termination Due to Conversion from CCN-P Provider Type to CCN-S Provider Type

1. After a minimum of 12 months of provision of services, the CCN may terminate the provider agreement for cause if the CCN declares that it will convert from a Prepaid Model to a Shared Savings Model. The CCN-P shall be subject to the cost requirements of a termination without cause as specified in the provider agreement. All members of the CCN-P will be notified of termination of the CCN-P and given the opportunity to select the newly converted CCN-S or another CCN-S.

Q. CCN Requirements Prior to Termination for Cause

1. The CCN shall comply with all terms and conditions stipulated in the provider agreement and the *CCN Policy and Procedure Guide* during the period prior to the effective termination date. The CCN is required to meet the requirements for termination for cause as specified in the provider agreement.

R. Other Sanctions. The department may impose additional sanctions allowed under state statute or regulation that address areas of noncompliance.

S. Denial of Payment While Under Sanction by CMS

1. Payments provided for under the provider agreement will be denied for new members when, and for so long as, payment for those members is denied by CMS in accordance with the requirements in federal regulations.

T. Dispute Resolutions. The CCN shall have the rights afforded by R.S. 46:107.

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

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

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

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

Bruce D. Greenstein
Secretary

1010#004

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

CommunityCARE Program
Primary Care Provider Referral Exemptions
(LAC 50:I.2911)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:I.2911 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This

Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the CommunityCARE Program to establish the program as an optional statewide covered service under the Medicaid State Plan instead of a waiver service, and to provide for the exclusion of certain additional Medicaid recipients from mandatory participation in the program (*Louisiana Register*, Volume 32, Number 3). The department promulgated an Emergency Rule which amended the provisions governing the CommunityCARE Program to exempt urgent care facilities and retail convenience clinics from the requirement to obtain a written referral/authorization from the primary care provider in order to receive reimbursement for services rendered to Medicaid recipients who are enrolled in CommunityCARE. In addition, these provisions were amended to include the exemption of a service that had been inadvertently omitted from the previous list of exempted services (*Louisiana Register*, Volume 36, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by facilitating access to cost-effective, walk-in health services.

Effective October 30, 2010 the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the CommunityCARE Program to exempt urgent care facilities and retail convenience clinics from the PCP referral requirements.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Medicaid Coordinated Care

Chapter 29. CommunityCARE

§2911. PCP Referral/Authorization

A. The following Medicaid covered services do not require written referral/authorization by the recipient's PCP:

1. - 18. ...

19. services provided through the Office of Public Health's Women, Infants, and Children (WIC) program;

20. services provided by school based health centers to recipients age 10 and older;

21. dentures for adults; and

22. services provided by urgent care facilities and retail convenience clinics.

a. These providers furnish walk-in, non-routine care as an alternative to emergency department care when access to primary care services is not readily available to meet the health needs of the recipient.

b. Urgent care facilities and retail convenience clinics must provide medical record notes of the visit to the recipient's PCP within 48 hours of the visit.

B. - B.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:909 (June 2003), amended LR 32:405

(March 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Bruce D. Greenstein
Secretary

1010#027

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

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

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

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

Act 10 of the 2009 Regular Session of the Louisiana Legislature directed the department to amend the DSH qualifying criteria and payment methodologies for non-rural community hospitals. In compliance with Act 10, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions of the June 26, 2009 Emergency Rule governing supplemental DSH payments to non-rural

community hospitals (*Louisiana Register*, Volume 36, Number 1). The department promulgated and Emergency Rule which amended the January 20, 2010 Emergency Rule to amend the provisions governing supplemental DSH payments to non-rural community hospitals in order to redistribute the funds allocated for the state fiscal year 2010 DSH appropriation (*Louisiana Register*, Volume 36, Number 7). This Emergency Rule is being promulgated to continue the provisions of the June 29, 2010 Emergency Rule. This action is being taken to promote the public health and welfare of uninsured individuals and to ensure their continued access to health care by assuring that hospitals are adequately reimbursed for furnishing uncompensated care.

Effective October 27, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing supplemental DSH payments to non-rural community hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Medical Assistance Program—Hospital Services

Subpart 3. Disproportionate Share Hospital Payments

Chapter 27. Qualifying Hospitals

§2701. Non-Rural Community Hospitals

A. ...

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

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

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

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

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

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

qualifying uninsured cost as a percent of total hospital cost and 3.5 percent of total hospital cost.

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

C.5. – E. ...

F. In the event that the total payments calculated for all recipient hospitals are anticipated to exceed the total amount appropriated, the department shall reduce payments on a pro rata basis in order to achieve a total cost that is not in excess of the amounts appropriated for this purpose. Any funding not distributed per the methodology outlined in C.1 – C.5 above shall be reallocated to these qualifying hospitals based on their reported uninsured costs. The \$35,000,000 appropriation for the non-rural community hospital pool shall be effective only for state fiscal year 2010 and distributions from the pool shall be considered nonrecurring.

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

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

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

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

2. Payment shall be calculated by dividing each qualifying freestanding psychiatric hospital's or distinct part psychiatric unit's uninsured days by the sum of all qualifying psychiatric uninsured days and multiplying by \$12,000,000.

a. - b. Repealed.

H. - I. ...

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

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

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

Bruce D. Greenstein
Secretary

1010#028

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Greater New Orleans Community Health Connection
Waiver (LAC 50:XXII.Chapters 61-69)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:XXII.Chapters 61-69 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 (B)(1), et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In July 2007, the Department of Health and Hospitals was awarded a \$100 million Primary Care Access Stabilization Grant (PCASG) from the Department of Health and Human Services, Centers for Medicare and Medicaid Services as a result of the disruption of primary health care service delivery in the greater New Orleans area due to Hurricanes Katrina and Rita. The PCASG was a three-year grant program designed to restore and expand access to primary care services, including behavioral health and dental services, without regard to a patient's ability to pay. The intent of the program was to restore and stabilize the provision of primary health care services in the New Orleans area by providing short-term financial relief to providers and to decrease reliance on costly emergency room services for patients who were uninsured, underinsured, or receiving Medicaid benefits. The PCASG program will end on September 30, 2010.

As a result of the termination of PCASG funds, the Department of Health and Hospitals, Bureau of Health Services Financing has determined that it is necessary to implement a demonstration program under the authority of a Section 1115 Waiver to ensure continued access to primary and behavioral health care services that were restored and expanded in the greater New Orleans area. Under this demonstration waiver, the Medicaid Program will provide coverage for primary and behavioral health care services delivered to eligible residents in Jefferson, Orleans, Plaquemines and St. Bernard parishes who have family income up to 200 percent of the federal poverty level.

This action is being taken to protect the health and welfare of uninsured individuals in the greater New Orleans area by ensuring continued access to primary care services. It is anticipated that the implementation of this Emergency Rule will increase expenditures in the Medicaid Program by approximately \$20,610,058 for state fiscal year 2010-2011.

Effective October 1, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing adopts the following provisions to implement a Section 1115 demonstration waiver to ensure continued access to primary and behavioral health care services in the greater New Orleans area.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 7. Greater New Orleans Community Health Connection Waiver

Chapter 61. General Provisions

§6101. Purpose

A. Upon approval from the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), the Department shall implement a Section 1115 demonstration waiver called the Greater New Orleans Community Health Connection (GNOCHC) Waiver to provide primary and behavioral health care services to eligible uninsured residents in the greater New Orleans area.

B. The intent of the GNOCHC Waiver is to preserve primary and behavioral health care access that was restored and expanded in the greater New Orleans area with Primary Care Access and Stabilization Grant (PCASG) funds awarded by CMS after Hurricanes Katrina and Rita. Implementation of this waiver program is expected to reduce reliance on costlier emergency room services to meet primary care needs.

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

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

§6103. Program Design

A. The GNOCHC Waiver is designed to transition the PCASG medical home model to a financially sustainable model utilizing other funding resources over the long-term.

B. The waiver is a 39 month demonstration project which shall be implemented in two primary phases which span four fiscal years.

C. Phase one of the GNOCHC Waiver shall focus on preserving access to primary care services and developing a CMS approved plan for transitioning the funding of the demonstration project to long-term revenue sources. Phase two focuses on implementing the transition plan, assessment, and the demonstration project phase-down.

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

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

Chapter 63. Eligibility

§6301. General Provisions

A. The targeted population for GNOCHC Waiver services shall be uninsured adults who live in the greater New Orleans area. For purposes of these provisions, the greater New Orleans area shall consist of the following parishes:

1. Jefferson;
2. Orleans;
3. Plaquemines; and
4. St. Bernard.

B. All applicants shall be pre-screened to determine possible eligibility for coverage in other Medicaid or Children's Health Insurance Programs (CHIP) prior to determining eligibility for GNOCHC Waiver services.

C. Retroactive coverage is not available in the GNOCHC Waiver program. The effective date of coverage for eligible recipients shall be the date the Medicaid Program receives the application for services.

D. At the department's discretion and upon CMS approval, the following measures may be taken to manage eligibility for these services to ensure that waiver expenditures do not exceed funding allocations. The department may:

1. employ a first come, first served reservation list to manage the number of applications received;
2. limit the number of applications provided to potential recipients; or
3. impose enrollment limits;

E. Waiver recipients shall undergo an eligibility redetermination at least once every 12 months. Each redetermination shall include an assessment of the individual's eligibility for coverage in other Medicaid or CHIP programs.

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

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

§6303. Recipient Qualifications

A. GNOCHC Waiver services shall be provided to individuals who:

1. have been uninsured for at least 6 months;
2. are not pregnant;
3. are age 19 through 64 years old;
4. are not otherwise eligible for Medicaid, CHIP or Medicare coverage;
5. are a resident of any one of the parishes in the greater New Orleans area as defined in §6301.A;
6. have family income up to 200 percent of the federal poverty level; and
7. meet citizenship requirements under the Deficit Reduction Act of 2008 and the Children's Health Insurance Program Reauthorization Act of 2009.

B. A waiver recipient shall be disenrolled from the program if any one of the following occurs. The recipient:

1. has family income that exceeds the income limits at redetermination;
2. voluntarily withdraws from the program;
3. no longer resides in a parish within the greater New Orleans area;
4. becomes incarcerated or becomes an inpatient in an institution for mental disorders;
5. obtains health insurance coverage;
6. turns 65 years old; or
7. dies.

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

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

Chapter 65. Services

§6501. Covered Services

A. The following services shall be available to GNOCHC Waiver recipients:

1. care coordination;
2. immunizations and influenza vaccines;
3. laboratory and radiology;
4. behavioral health care;
5. pharmacy;
6. primary health care;
7. preventive health care;
8. substance abuse; and

9. specialty care (covered with a referral from the primary care physician).

B. Cost-sharing may be applicable to the services rendered in this waiver program. All demonstration cost-sharing shall be in compliance with federal statutes, regulations and policies. A wavier recipient's share of the cost shall be restricted to a 5 percent aggregate limit per family.

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

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

§6503. Service Delivery

A. All of the covered services under this waiver program shall be delivered by an existing PCASG funded clinic.

B. All services shall be delivered on an outpatient basis. Reimbursement shall not be made under this waiver program for services rendered to recipients who meet inpatient status.

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

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

Chapter 67. Provider Participation

§6701. General Provisions

A. All clinics participating in the delivery of services covered under the GNOCHC Waiver shall adhere to all of the applicable federal and state regulations, policy, Rules, manuals and laws.

B. Each participating clinic shall meet the following requirements. The clinic shall:

1. be an existing PCASG funded clinic;
2. be operational and serving waiver recipients on October 1, 2010;
 - a. if a former PCASG clinic wishes to reestablish operations as a GNOCHC participating clinic after October 1, 2010, CMS approval shall be required;
3. be a public or private not-for-profit entity that meets the following conditions:
 - a. the entity must not be an individual practitioner in private solo or group practice;
 - b. the clinic shall be currently licensed, if applicable;
 - c. either the clinic or its licensed practitioners shall be currently enrolled in the Medicaid Program; and
 - d. all health care practitioners affiliated with the clinic that provide health care treatment, behavioral health counseling, or any other type of clinical health care services to patients shall hold a current, unrestricted license to practice in the state of Louisiana within the scope of that licensure;
4. provide full disclosure of ownership and control, including but not limited to any relative contractual agreements, partnerships, etc.;
5. have a statutory, regulatory or formally established policy commitment (e.g. through corporate bylaws) to serve all people, including patients without insurance, at every income level regardless of their ability to pay for services, and be willing to accept and serve new publicly insured and uninsured individuals;

6. maintain one or more health care access points or service delivery sites for the provision of health care services which may include medical care, behavioral health care and

substance abuse services, either directly on-site or through established contractual arrangements; and

7. be capable of implementing and evaluating the effectiveness of an organization-specific strategic plan to become a sustainable organizational entity by December 31, 2013 which is capable of permanently providing primary or behavioral health care services to residents in the greater New Orleans area.

a. For purposes of these provisions, a sustainable organizational entity shall be defined as an entity actively developing, implementing and evaluating the effectiveness of its organization to diversify its operating income and funding resources to include non-demonstration funding sources.

C. Participating providers/clinics shall be responsible for:

1. collection of all data on the services rendered to demonstration participants through encounter data or other methods so specified by the department; and
2. maintenance of such data at the provider level.

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

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

§6703. Reporting Requirements

A. GNOCHC participating clinics shall be required to provide a sustainability plan to the department by March 1, 2011.

B. Semi-annual progress reports on the sustainability plan shall be submitted during the second and fourth quarter of each demonstration year. The first annual report is due in the fourth quarter of the first demonstration year.

C. Participating providers/clinics shall be required to provide encounter data in the format and frequency specified by the department.

D. Clinics that do not comply with these reporting requirements shall not be eligible to receive payments from this demonstration program and may receive financial penalties for noncompliance.

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

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

Chapter 69. Reimbursement

§6901. General Provisions

A. Clinics shall ensure that reimbursement for services covered under the GNOCHC Wavier is requested only for those individuals who meet the program criteria.

B. Federal financial participation (FFP) for this waiver program is limited to the federal share of \$30 million annually in demonstration expenditures in each of the first three years of the demonstration. In year four, FFP is limited to the federal share of \$7.5 million. Thus, the total FFP for this demonstration waiver program over all four years is limited to the federal share of \$97.5 million. Federal funding will not be available for expenditures in excess of these annual limits even when the expenditure limit was not reached in prior years.

1. These provisions do not preclude the department from including as allowable expenditures for a particular demonstration year any expenditures incurred after the end of a demonstration year for items or services furnished during that year.

C. The federal share of expenditures for payments to GNOCHC providers shall be calculated based upon the applicable federal medical assistance percentage rate for the year in which the expenditures were incurred.

D. The department may make an urgent sustainability payment to any eligible GNOCHC clinic that meets the criteria of this Chapter 67 and requires financial support to maintain clinical operations while the department seeks CMS approval for the funding and reimbursement protocol for this waiver program.

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

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

§6903. Reimbursement Methodology

A. Urgent Sustainability Payments

1. For each clinic requiring an urgent sustainability payment, the department shall determine the average payment based upon the clinic's three-year historical grant award received under the PCASG program.

2. The sustainability payment shall be no more than 25 percent of the average annual payment determined for that clinic during the PCASG period. Prior approval from CMS shall be required for sustainability payments in excess of 25 percent of the clinic's average PCASG payment. The department may disburse the payment in the first quarter of demonstration year one.

3. Upon CMS approval of the payment methodology, the department shall reconcile the amount of sustainability payments made to clinics during the period of October 1, 2010 through December 31, 2010 against the actual payments that would have been made to the clinics under the approved payment methodology.

a. Any overpayments made to a clinic shall be recouped from the clinic's payments due in the quarter following the reconciliation.

b. Any underpayments made to a clinic shall be made in the quarter following the reconciliation.

4. The total of all sustainability payments made during the first quarter in demonstration year one shall not exceed \$7.5 million. Any sustainability payments made shall be applied to the \$30 million total computable annual allotment for demonstration year one.

B. Reimbursement for services rendered during phase one and phase two of the demonstration shall be made according to the rate methodology established by the department and approved by CMS in the funding and reimbursement protocol for this waiver program.

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

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

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

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this Emergency Rule. A

copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce Greenstein
Secretary

1010#002

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing and Office of Aging and Adult Services

Home and Community-Based Services Waivers
Elderly and Disabled Adults
Personal Assistance Services
(LAC 50:XXI.8101, 8105, 8107, 8301, and 8503)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amends LAC 50:XXI.8101, §8105, §8107, §8301 and §8503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

To assure compliance with federal requirements regarding the cost-effectiveness of the Elderly and Disabled Adults (EDA) Waiver Program, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the EDA Waiver to: 1) change the allocation priority of waiver opportunities; 2) implement uniform needs-based assessments to determine the level of support needs and establish an individual cost cap based on need; 3) clarify the service cap for environmental accessibility adaptation services; 4) add shared supports to companion services; and 5) mandate that personal representatives cannot be the paid companion care worker (Louisiana Register, Volume 35, Number 11). The department promulgated an Emergency Rule which amended the provisions governing the EDA Waiver to implement a new service that incorporated the current functions of companion services and further clarified the provisions governing responsible representatives and discharge criteria (Louisiana Register, Volume 36, Number 6). The July 4, 2010 Emergency Rule also reorganized the provisions governing covered services in a more clear and concise manner in the Louisiana Administrative Code.

The department now proposes to amend the provisions of the July 4, 2010 Emergency Rule to: 1) adopt provisions that address requests for services; 2) revise the provisions governing the allocation of waiver opportunities and the resource assessment process; 3) clarify the provisions governing restrictions for paid direct care staff and the place of service; and 4) revise the provisions governing provider responsibilities. This action is being taken to avoid federal sanctions for noncompliance with waiver cost-effectiveness requirements and to ensure long-term financial viability for the Elderly and Disabled Adults Waiver.

Effective October 20, 2010, the Department of Health and Hospitals, Office of Aging and Adult Services amends the provisions of the July 4, 2010 Emergency Rule governing the Elderly and Disabled Adults Waiver.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community-Based Services

Waivers

Subpart 7. Elderly and Disabled Adults Waiver

Chapter 81. General Provisions

§8101. Introduction

A. - B. ...

C. Requests for EDA waiver services shall be accepted from the following individuals:

1. an individual who wants to receive EDA Waiver services;

2. an individual who is legally responsible for a participant who may be in need of EDA Waiver services; or

3. a responsible representative designated by the participant to act on his/her behalf in requesting EDA Waiver services.

D. Each participant who requests EDA Waiver services has the option to designate a responsible representative. For purposes of these provisions, a responsible representative shall be defined as the person designated by the participant to act on his/her behalf in the process of accessing and/or maintaining EDA Waiver services.

1. The appropriate form authorized by OAAS shall be used to designate a responsible representative.

a. The written designation of a responsible representative does not give legal authority for that individual to independently handle the participant's business without his/her involvement.

b. The written designation is valid until revoked by the participant. To revoke the written designation, the revocation must be submitted in writing to OAAS or its designee.

2. The functions of a responsible representative are to:

a. assist and represent the participant in the assessment, care plan development and service delivery processes; and

b. to aid the participant in obtaining all necessary documentation for these processes.

3. The participant's responsible representative shall not be reimbursed for providing services to the participant.

4. An owner or employee of a EDA Waiver services agency may not be designated as a responsible representative for any recipient who receives services from an agency he/she owns or is employed by.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1698 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department Of Health and Hospitals, Office of Aging and Adult Services, LR 34:1029 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2447 (November 2009), amended LR 36:

§8105. Programmatic Allocation of Waiver Opportunities

A. ...

B. EDA Waiver opportunities shall be offered to individuals on the registry according to the following needs-based priority groups. The following groups shall have priority for EDA Waiver opportunities, in the order listed:

1. individuals with substantiated cases of abuse or neglect with Adult Protective Services or Elderly Protective Services who, absent EDA Waiver services, would require institutional placement to prevent further abuse and neglect;

2. individuals diagnosed with Amyotrophic Lateral Sclerosis (ALS);

3. individuals presently residing in nursing facilities for 90 or more continuous days;

a. - e. NOTE. Repealed.

4. individuals who are not presently receiving home and community-based services under another approved waiver program including, but not limited to the:

a. Adult Day Health Care Waiver;

b. New Opportunities Waiver;

c. Supports Waiver; and

d. Residential Options Waiver;

5. all other eligible individuals on the Request for Services Registry (RFSR), by date of first request for services.

C. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:1030 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2447 (November 2009), amended LR 36:

§8107. Resource Assessment Process

A. - C.1. ...

2. The applicant/recipient may qualify for an increase in the annual services budget amount upon showing that:

a. one or more answers are incorrect as recorded on the MDS-HC (with the exception of the answers in Sections AA, BB, A, and R of the MDS-HC); or

C.2.b. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2447 (November 2009), amended LR 36:

Chapter 83. Covered Services

§8301. Service Descriptions

A. Support Coordination is services that will assist recipients in gaining access to necessary waiver and State Plan services, as well as needed social, educational and other services, regardless of the funding source for these services. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the recipient's approved CPOC.

B. Transition Intensive Support Coordination is services that will assist recipients who are currently residing in nursing facilities in gaining access to necessary waiver and State Plan services, as well as needed social, educational and other services, regardless of the funding source for these services. Support coordinators will initiate and oversee the process for assessment and reassessment, as well as be responsible for ongoing monitoring of the provision of services included in the recipient's approved CPOC.

C. Environmental Accessibility Adaptation is necessary physical adaptations made to the home to ensure the health, safety, and welfare of the recipient, or enable the recipient to function with greater independence in the home. Without these necessary adaptations, the recipient would require institutionalization. These services must be provided in accordance with state and local laws governing licensure and/or certification.

1. There is a lifetime cap of \$3,000 per recipient for this service.

D. Personal Emergency Response System (PERS). This is an electronic device which enables the recipient to secure help in an emergency. PERS services are limited to specific recipients.

5. - 5.e.Repealed.

E. Personal Assistance Services (PAS) provides assistance to participants in performing the activities of daily living and household chores necessary to maintain the home in a clean, sanitary and safe environment, based on their CPOC.

1. PAS may also include the following services based on the CPOC:

a. protective supervision provided solely to assure the health and welfare of a participant with cognitive/memory impairment and/or physical weakness;

b. supervising or assisting, as approved in the CPOC, a participant with functional impairments with health related tasks (any health related procedures governed under the Nurse Practice Act) if he/she is unable to do so without supports according to applicable delegation/medication administration;

c. supervising or assisting the participant, who has no supports and is unable to do so without supports or has no available natural supports, to socialize in his/her community according to the desired outcomes included in the CPOC;

d. escort services, which are used to accompany the individual outside of the home during the performance of tasks related to instrumental activities of daily living and health maintenance, and to provide the same assistance as would be rendered in the home; and

e. extension of therapy services.

i. For purposes of these provisions, extension of therapy services may include instances where licensed practitioners may provide instruction to the worker so he/she is able to better assist the participant.

ii. Licensed therapists may choose to instruct the workers on the proper way to assist the participant in follow-up therapy sessions. This assistance and support provides reinforcement of instruction and aids in the rehabilitative process.

iii. A registered nurse may instruct a worker to perform basic interventions with participants that would increase and optimize functional abilities for maximum

independence in performing activities of daily living, such as range of motion exercises.

2. PAS is provided in the participant's home unless the participant requests to receive PAS outside of the home.

a. PAS shall not duplicate the services provided to a participant who resides in an assisted living facility.

b. The participant must be present while PAS services are being provided in the home.

3. Service Restrictions

a. PAS shall not be provided during the same designated hours or time period that a participant receives Adult Day Health Care services.

b. Participants who receive PAS cannot receive Long-Term Personal Care Services.

4. PAS services may be provided by one worker for up to three waiver participants who live together and who have a common direct service provider.

a. Waiver participants may share PAS service staff when it is agreed to by the participants and health, safety and welfare can be assured for each individual.

b. Shared PAS services will be reflected on the plan of care of each participant.

5. The following individuals are prohibited from being reimbursed for providing services to a participant:

a. the participant's spouse;

b. the participant's curator;

c. the participant's tutor;

d. the participant's legal guardian;

e. the participant's responsible representative; or

f. the person to whom the participant has given Representative and Mandate authority (also known as power of attorney).

6. Participants are not permitted to receive PAS while living in a home or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the participant.

F. Transition Services. These services assist an individual, who has been approved for an EDA Waiver opportunity, to leave a nursing facility and return to live in the community.

1. Service Limit. Funds are available one time per lifetime for specific items as approved in the recipient's CPOC.

G. Adult Day Health Care (ADHC). ADHC services are a planned, diverse daily program of individual services and group activities structured to enhance the recipient's physical functioning and to provide mental stimulation. Services are furnished for five or more hours per day (exclusive of transportation time to and from the ADHC facility) on a regularly scheduled basis for one or more days per week, or as specified in the plan of care. An adult day health care facility shall, at a minimum, furnish the following services:

1. individualized training or assistance with the activities of daily living (toileting, grooming, eating, ambulation, etc.);

2. health and nutrition counseling;

3. an individualized, daily exercise program;

4. an individualized, goal directed recreation program;

5. daily health education;

6. medical care management;

7. one nutritionally balanced hot meal and two snacks served each day;

8. nursing services that include the following individualized health services:

a. monitoring vital signs appropriate to the diagnosis and medication regimen of each recipient no less frequently than monthly;

b. administering medications and treatments in accordance with physicians' orders;

c. monitoring self-administration of medications while the recipient is at the ADHC facility; and

NOTE: All nursing services shall be provided in accordance with acceptable professional practice standards.

d. transportation to and from the facility.

NOTE: If transportation services that are prescribed in any participant's approved CPOC are not provided by the ADHC facility, the facility's reimbursement rate shall be reduced accordingly.

H. Providers of EDA Waiver services must have a valid, current license for their respective service program, if applicable, and furnish services in accordance with the applicable licensing and/or certification requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2448 (November 2009), amended LR 36:

Chapter 85. Admission and Discharge Criteria

§8503. Admission Denial or Discharge Criteria

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

1. - 7. ...

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1246 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:1030 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

Chapter 89. Provider Responsibilities

§8901. General Provisions

A. Any provider of services under the EDA Waiver shall abide by and adhere to any federal or state laws, rules, policy, procedures, or manuals issued by the department. Failure to do so may result in sanctions.

B. The provider agrees to not request payment unless the participant for whom payment is requested is receiving services in accordance with the EDA Waiver Program provisions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1700 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1247 (July

2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 36:

§8903. Reporting Requirements

A. Support coordination and direct service providers are obligated to report changes to the department that could affect the waiver participant's eligibility including, but not limited to, those changes cited in the denial or discharge criteria.

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

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

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

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

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

Bruce D. Greenstein
Secretary

1010#023

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services—Major Teaching Hospitals
Qualifying Criteria
(LAC 50:V.1301-1309)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to adopt LAC 50:V.1301-1309 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted a rule that established the reimbursement of major and minor teaching hospitals as peer groups under the prospective reimbursement methodology for hospitals (*Louisiana Register*, Volume 20, Number 6). The department amended the June 20, 1994 Rule to adopt new criteria for the reimbursement of graduate medical education (GME) pursuant to Section 15 Schedule 09 of Act 19 of the 1998

Regular Session of the Louisiana Legislature and R.S. 39:71 et seq (*Louisiana Register*, Volume 26, Number 3).

Act 347 of the 2009 Regular Session of the Louisiana Legislature revised the qualifying criteria for major teaching hospitals. In compliance with Act 347, the department promulgated an Emergency Rule which amended the provisions governing the qualifying criteria for major teaching hospitals. This Emergency Rule also repromulgated the March 20, 2000 Rule governing teaching hospitals in a codified format for inclusion in the *Louisiana Administrative Code* (*Louisiana Register*, Volume 36, Number 6). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging provider participation in the Medicaid Program so as to assure sufficient access to hospital services.

Effective October 30, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing inpatient hospital services rendered by non-rural, non-state hospitals designated as teaching hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospital Services

Chapter 13. Teaching Hospitals

Subchapter A. General Provisions

§1301. Major Teaching Hospitals

A. The Louisiana Medical Assistance Program's recognition of a major teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the Liaison Committee on Medical Education (LCME). A major teaching hospital shall meet one of the following criteria:

1. be a major participant in at least four approved medical residency programs. At least two of the programs must be in medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry; or

2. maintain an intern and resident full-time equivalency of at least 20 filled positions with an approved medical residency program in family practice located more than 150 miles from the medical school accredited by the LCME.

B. For the purposes of recognition as a major teaching hospital, a facility shall be considered a "major participant" in a graduate medical education program if it meets the following criteria. The facility must:

1. pay for all of the costs of the training program in the non-hospital or hospital setting, including:

a. the residents' salaries and fringe benefits;

b. the portion of the cost of teaching physicians' salaries and fringe benefits attributable to direct graduate medical education; and

c. other direct administrative costs of the program; and

2. participate in residency programs that:

a. require residents to rotate for a required experience;

b. require explicit approval by the appropriate Residency Review Committee (RRC) of the medical school

with which the facility is affiliated prior to utilization of the facility; or

c. provide residency rotations of more than one sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited program in the *Graduate Medical Education Directory* of the Accreditation Council for Graduate Medical Education (ACGME).

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

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

§1303. Minor Teaching Hospitals

A. The Louisiana Medical Assistance Program's recognition of a minor teaching hospital is limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the LCME. A minor teaching hospital shall meet the following criteria:

1. must participate significantly in at least one approved medical residency program in either medicine, surgery, obstetrics/gynecology, pediatrics, family practice, emergency medicine or psychiatry; and

2. maintain an intern and resident full time equivalency of at least six filled positions.

B. For the purposes of recognition as a minor teaching hospital, a facility is considered to "participate significantly" in a graduate medical education program if it meets the following criteria. The facility must:

1. pay for all of the costs of the training program in the non-hospital or hospital setting, including:

a. the residents' salaries and fringe benefits;

b. the portion of the cost of teaching physicians' salaries and fringe benefits attributable to direct graduate medical education; and

c. other direct administrative costs of the program; and

2. participate in residency programs that:

a. require residents to rotate for a required experience;

b. require explicit approval by the appropriate

Residency Review Committee of the medical school with which the facility is affiliated prior to utilization of the facility; or

c. provide residency rotations of more than one sixth of the program length or more than a total of six months at the facility and are listed as part of an accredited program in the *Graduate Medical Education Directory* of the Accreditation Council for Graduate Medical Education.

i. If not listed, the sponsoring institution must have notified the ACGME, in writing, that the residents rotate through the facility and spend more than 1/6th of the program length or more than a total of six months at the facility.

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

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

§1305. Approved Medical Residency Program

A. An approved medical residency program is one that meets one of the following criteria:

1. counts toward certification of the participant in a specialty or sub-specialty listed in the current edition of either *The Directory of Graduate Medical Education*

Programs published by the American Medical Association, Department of Directories and Publications, or *The Annual Report and Reference Handbook* published by the American Board of Medical Specialties;

2. is approved by the ACGME as a fellowship program in geriatric medicine; or

3. is a program that would be accredited except for the accrediting agency's reliance upon an accreditation standard that requires an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training regardless of whether the standard provides exceptions or exemptions.

B. A residency program at a non-hospital facility may be counted by a hospital if:

1. there is a written agreement with the non-hospital facility that requires the hospital facility to pay for the cost of the training program; and

2. the agreement requires that the time that residents spend in the non-hospital setting is for patient care.

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

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

§1307. Graduate Medical Education

A. The Bureau adopts criteria for the reimbursement of graduate medical education (GME) in facilities that do not qualify as major or minor teaching facilities. GME recognized by the Medical Assistance Program for reimbursement shall be limited to facilities having a documented affiliation agreement with a Louisiana medical school accredited by the LCME.

B. Payment for GME costs shall be limited to the direct cost of interns and residents in addition to the teaching physician supervisory costs. Teaching physician supervisory costs shall be limited in accordance with the provisions of the Medicare Provider Reimbursement Manual. The GME component of the rate shall be based on hospital specific graduate medical education Medicaid cost for the latest year on which hospital prospective reimbursements are rebased trended forward in accordance with the prospective reimbursement methodology for hospitals.

C. Hospitals implementing GME programs approved after the latest year on which hospital prospective reimbursements have been rebased shall have a GME component based on the first full cost reporting period that the approved GME program is in existence trended forward in accordance with the prospective reimbursement methodology for hospitals.

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

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

§1309. Requirements for Reimbursement

A. Qualification for teaching hospital status or to receive reimbursement for GME costs shall be re-established at the beginning of each fiscal year.

B. To be reimbursed as a teaching hospital or to receive reimbursement for GME costs, a facility shall submit the following documentation to the Bureau of Health Services, Program Operations Section within 30 days of the beginning of each state fiscal year:

1. a copy of the executed affiliation agreement for the time period for which the teaching hospital status or GME reimbursement applies;

2. a copy of any agreements with non-hospital facilities; and

3. a signed Certification For Teaching Hospital Recognition.

C. Each hospital which is reimbursed as a teaching hospital or receives reimbursement for GME costs shall submit the following documentation to the Bureau of Health Services, Program Operations Section, within 90 days of the end of each state fiscal year:

1. a copy of the Intern and Resident Information

System report that is submitted annually to the Medicare intermediary; and

2. a copy of any notice given to the ACGME that residents rotate through a facility for more than one sixth of the program length or more than a total of six months.

D. Copies of all contracts, payroll records and time allocations related to graduate medical education must be maintained by the hospital and available for review by the state and federal agencies or their agents upon request.

E. No teaching hospital shall receive a per diem rate greater than 115 percent of its facility specific cost based on the latest rebasing year trended forward to the rate year in accordance with the prospective reimbursement methodology for hospitals.

F. The peer group maximum for minor teaching hospitals shall be the peer group maximum for minor teaching hospitals or the peer group maximum for peer group five, whichever is greater.

G. If it is subsequently discovered that a hospital has been reimbursed as a major or minor teaching hospital and did not qualify for that peer group for any reimbursement period, retroactive adjustment shall be made to reflect the correct peer group to which the facility should have been assigned. The resulting overpayment will be recovered through either immediate repayment by the hospital or recoupment from any funds due to the hospital from the department.

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

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

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

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

Bruce D. Greenstein
Secretary

1010#029

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Inpatient Hospital Services
Non-Rural, Non-State Hospitals
Low Income and Needy Care Collaboration
(LAC 50:V.953)

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

As a result of a continuing budgetary shortfall in state fiscal year 2010, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which amended the provisions governing inpatient hospital services to reduce the reimbursement rates paid to non-rural, non-state hospitals (Louisiana Register, Volume 35, Number 8). The final Rule was published July 20, 2010 (Louisiana Register, Volume 36, Number 7). In October 2009, the department amended the provisions governing reimbursements to inpatient hospitals in order to align the prospective per diem rates more closely with reported costs (Louisiana Register, Volume 35, Number 10). Provisions governing reimbursements to children's specialty hospitals were erroneously incorporated into the provisions for the rate adjustment to acute care hospitals. The department promulgated an Emergency Rule which repealed the children's specialty hospital provisions from the rate adjustment for acute care hospitals (Louisiana Register, Volume 35, Number 12). In January 2010, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for inpatient hospital services in order to establish a Medicaid upper payment limit financing mechanism to provide supplemental payments to acute care general hospitals (Louisiana Register, Volume 36, Number 1). This initiative, known as the Low Income and Needy Care Collaboration, provides supplemental payments to non-rural, non-state hospitals that enter into an agreement with a state or local governmental entity for the purpose of providing healthcare services to low income and needy patients. The department amended the January 1, 2010 Emergency Rule in order to incorporate the provisions of the December 20, 2009 Emergency Rule and to reorganize these provisions in the appropriate place in the Louisiana Administrative Code (LAC) (Louisiana Register, Volume 36, Number 2). The department now proposes to amend the provisions of the February 20, 2010 Emergency Rule to revise the formatting of LAC 50:V.953 as a result of the promulgation of the July 20, 2010 final Rule. This action is being taken to ensure that these provisions are appropriately adopted into the LAC.

Effective October 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the February 20, 2010 Emergency Rule

governing the reimbursement methodology for inpatient hospital services rendered by non-rural, non-state hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 1. Inpatient Hospitals

Chapter 9. Non-Rural, Non-State Hospitals

Subchapter B. Reimbursement Methodology

§953. Acute Care Hospitals

A. - M. ...

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

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

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

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:876 (May 2008), amended LR 34:877 (May 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1896 (September 2009), repromulgated LR 35:2182 (October 2009), amended LR 36:

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

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to all inquiries regarding this Emergency Rule. A

copy of this Emergency Rule is available for review by interested parties at parish Medicaid offices.

Bruce D. Greenstein
Secretary

1010#024

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities
Reimbursement Rate Reduction
(LAC 50:VII.1305)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes amends LAC 50:VII.1305 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a continuing budgetary shortfall in state fiscal year 2010, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for nursing facilities to reduce the per diem rate paid to non-state nursing facilities (*Louisiana Register*, Volume 36, Number 2). The department amended the provisions governing the reimbursement methodology for non-state nursing facilities to reduce the per diem rates which were increased on July 1, 2010 as a result of the FY 2009-10 rebasing (*Louisiana Register*, Volume 36, Number 3). The March 20, 2010 Rule also clarified the provisions governing the reimbursement methodology for state-owned or operated nursing facilities and non-state, government-owned or operated nursing facilities. The department promulgated an Emergency Rule which amended the provisions of the January 22, 2010 Emergency Rule to clarify the reduction of the per diem rate (*Louisiana Register*, Volume 36, Number 5). In anticipation of projected expenditures in the Medical Vendor Program exceeding the funding allocated in the General Appropriations Act for state fiscal year (SFY) 2011, the department promulgated an Emergency Rule which further reduced the per diem rates paid to non-state nursing facilities (*Louisiana Register*, Volume 36, Number 7). In compliance with Act 244 of the 2009 Regular Session of the Louisiana Legislature, the department amended the provisions governing the reimbursement methodology for nursing facilities to adjust the periodic rebasing of the nursing facility rates (*Louisiana Register*, Volume 36, Number 8). The department amended the provisions of the May 20, 2010 Emergency Rule to revise the formatting of LAC 50:VII.1305 as a result of the promulgation of the July 20, 2010 and the August 20, 2010 final Rules governing the

reimbursement methodology for nursing facilities (*Louisiana Register*, Volume 36, Number 9).

The department now proposes to amend the provisions of the July 1, 2010 Emergency Rule governing the SFY 2011 rate reduction to revise the formatting of LAC 50:VII.1305 as a result of the promulgation of the July 20, 2010 and the August 20, 2010 final Rules. This action is being taken to ensure that these provisions are appropriately incorporated into the *Louisiana Administrative Code*.

Effective October 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions of the July 1, 2010 Emergency Rule governing the reimbursement methodology for non-state nursing facilities.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1305. Rate Determination

A. - E. ...

F. Effective for dates of service on or after January 22, 2010, the reimbursement paid to non-state nursing facilities shall be reduced by 1.5 percent of the per diem rate on file as of January 21, 2010 (\$1.95 per day) until such time as the rate is rebased.

G. Effective for dates of service on or after July 1, 2010, the per diem rate paid to non-state nursing facilities shall be reduced by an amount equal to 4.8 percent of the non-state owned nursing facilities statewide average daily rate on file as of July 1, 2010 until such time as the rate is rebased.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1791 (August 2002), amended LR 31:1596 (July 2005), LR 32:2263 (December 2006), LR 33:2203 (October 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:325 (February 2010), repromulgated LR 36:520 (March 2010), amended LR 36:1556 (July 2010), LR 36:1782 (August 2010), LR 36:

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

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

Bruce D. Greenstein
Secretary

1010#026

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Nursing Facilities
Reimbursement Methodology
Minimum Data Set Assessments
(LAC 50:VII.1301, 1307, 1313 and 1315)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:VII.1301, §1307, §1313 and §1315 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

In compliance with Act 694 of the 2001 Regular Session of the Louisiana Legislature, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repealed the provisions governing the prospective reimbursement methodology for private nursing facilities and established a new reimbursement methodology based on a case-mix price-based reimbursement system for private and public nursing facilities (*Louisiana Register*, Volume 28, Number 6). The department amended the June 20, 2002 Rule to incorporate new definitions and revised current definitions governing nursing facility reimbursements. The December 20, 2002 Rule also revised the provisions governing the submission of cost reports and adopted provisions governing verification of minimum data set (MDS) assessments and the appeal process for dispute of MDS review findings (*Louisiana Register*, Volume 28, Number 12).

The department now proposes to amend the provisions governing the reimbursement methodology for nursing facilities to revise the provisions governing MDS assessments in order to comply with new federal requirements. This Emergency Rule will also change the date that MDS assessments are due. This action is being taken to avoid sanctions from the Centers for Medicare and Medicaid Services for noncompliance with the federal mandate to utilize the new MDS assessment data. It is estimated that implementation of this Emergency Rule will have no programmatic costs for state fiscal year 2010-2011.

Effective October 20, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for nursing facilities to revise the provisions governing MDS assessments.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part VII. Long Term Care Services

Subpart 1. Nursing Facilities

Chapter 13. Reimbursement

§1301. Definitions

Assessment Reference Date—the date on the Minimum Data Set (MDS) used to determine the due date and delinquency of assessments. This date is used in the case-mix reimbursement system to determine the last assessment

for each resident present in the facility and is included in the quarterly case-mix report.

Case-Mix Index—a numerical value that describes the resident's relative resource use within the groups under the Resource Utilization Group (RUG-III) classification system, or its successor, prescribed by the department based on the resident's MDS assessments. Two average CMIs will be determined for each facility on a quarterly basis, one using all residents (the facility average CMI) and one using only Medicaid residents (the Medicaid average CMI).

Case-Mix MDS Documentation Review (CMDR)—a review of original legal medical record documentation on a randomly selected MDS assessment sample. The original legal medical record documentation supplied by the nursing facility is to support certain reported values that resulted in a specific RUG classification. The review of the documentation provided by the nursing facility will result in the RUG classification being supported or unsupported.

Delinquent MDS Resident Assessment—an MDS assessment that is more than 121 days old, as measured by the Assessment Reference Date (ARD) field on the MDS.

Facility Cost Report Period Case-Mix Index—the average of quarterly facility-wide average case-mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the facility's cost reporting period that is used to determine the medians. This average includes any revisions made due to an on-site CMDR.

Example: A January 1, 2011-December 31, 2011 cost report period would use the facility-wide average case-mix indices calculated for March 31, 2011, June 30, 2011, September 30, 2011 and December 31, 2011.

1. Repealed.

Facility-Wide Average Case-Mix Index—the simple average, carried to four decimal places, of all resident case-mix indices based on the last day of each calendar quarter. If a facility does not have any residents as of the last day of a calendar quarter or the average resident case-mix indices appear invalid due to temporary closure or other circumstances, as determined by the department, a statewide average case-mix index using occupied and valid statewide facility case-mix indices may be used.

Final Case-Mix Index Report (FCIR)—the final report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter, referred to as the point-in-time.

Minimum Data Set (MDS)—a core set of screening and assessment data, including common definitions and coding categories, that form the foundation of the comprehensive assessment for all residents of long-term care facilities certified to participate in the Medicaid Program. The items in the MDS standardize communication about resident problems, strengths, and conditions within facilities, between facilities, and between facilities and outside agencies. The Louisiana system will employ the current MDS assessment required and approved by the Centers for Medicare and Medicaid Services (CMS).

MDS Supportive Documentation Guidelines—the department's publication of the minimum medical record

documentation guidelines for the MDS items associated with the RUG-III or its successor classification system. These guidelines shall be maintained by the department and updated and published as necessary.

On-Site MDS Review—Repealed.

Point-in-Time—Repealed.

Preliminary Case Mix Index Report (PCIR)—the preliminary report that reflects the acuity of the residents in the nursing facility on the last day of the calendar quarter.

* * *

RUG-III Resident Classification System—the resource utilization group used to classify residents. When a resident classifies into more than one RUG-III, or its successor's group, the RUG-III or its successor's group with the greatest CMI will be utilized to calculate the facility average CMI and Medicaid average CMI.

Summary Review Results Letter—a letter sent to the nursing facility that reports the final results of the case-mix MDS documentation review and concludes the review.

1. The Summary Review Results letter will be sent to the nursing facility within 10 business days after the final exit conference date.

* * *

Unsupported MDS Resident Assessment—an assessment where one or more data items that are used to classify a resident pursuant to the RUG-III, 34-group, or its successor's resident classification system is not supported according to the MDS supporting documentation guidelines and a different RUG-III, or its successor, classification would result; therefore, the MDS assessment would be considered "unsupported."

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1790 (August 2002), amended LR 28:2537 (December 2002), LR 32:2262 (December 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§1307. Case-Mix Index Calculation

A. The Resource Utilization Groups-III (RUG-III) Version 5.20, 34-group, or its successor, index maximizer model shall be used as the resident classification system to determine all case-mix indices, using data from the minimum data set (MDS) submitted by each facility. Standard Version 5.20, or its successor, case-mix indices developed by CMS shall be the basis for calculating average case-mix indices to be used to adjust the direct care cost component. Resident assessments that cannot be classified to a RUG-III group, or its successor, will be excluded from the average case-mix index calculation.

B. Effective with the January 1, 2011 rate setting, each resident in the facility, with a completed and submitted assessment, shall be assigned a RUG-III, 34-group, or its successor, on the last day of each calendar quarter. The RUG-III group, or its successor, is calculated based on the resident's most current assessment, available on the last day of each calendar quarter, and shall be translated to the appropriate case-mix index. From the individual resident case-mix indices, two average case-mix indices for each Medicaid nursing facility shall be determined four times per year based on the last day of each calendar quarter.

C. Effective with the January 1, 2011 rate setting, the facility-wide average case-mix index is the simple average, carried to four decimal places, of all resident case-mix indices. The Medicaid average case-mix index is the simple average, carried to four decimal places, of all indices for residents where Medicaid is known to be the per diem payor source on the last day of the calendar quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1792 (August 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§1313. Case-Mix Minimum Data Set Documentation Reviews and Case-Mix Index Reports

A. The department or its contractor shall provide each nursing facility with the Preliminary Case-Mix Index Report (PCIR) by approximately the fifteenth day of the second month following the beginning of a calendar quarter. The PCIR will serve as notice of the MDS assessments transmitted and provide an opportunity for the nursing facility to correct and transmit any missing MDS assessments or tracking records or apply the CMS correction policy where applicable. The department or its contractor shall provide each nursing facility with a Final Case-Mix Index Report (FCIR) (point-in-time) utilizing MDS assessments after allowing the facilities a reasonable amount of time to process their corrections (approximately two weeks).

1. If the department or its contractor determines that a nursing facility has delinquent MDS resident assessments, for purposes of determining both average CMIs, such assessments shall be assigned the case-mix index associated with the RUG-III group "BC1-Delinquent" or its successor. A delinquent MDS shall be assigned a CMI value equal to the lowest CMI in the RUG-III, or its successor, classification system.

B. The department or its contractor shall periodically review the MDS supporting documentation maintained by nursing facilities for all residents, regardless of payer type. Such reviews shall be conducted as frequently as deemed necessary by the department. The department shall notify facilities of the Case-Mix MDS Documentation Reviews (CMDR) not less than two business days prior to the start of the review date and a FAX, electronic mail or other form of communication will be provided to the administrator and MDS coordinator on the same date identifying possible documentation that will be required to be available at the start of the on-site CMDR.

1. The department or its contractor shall review a sample of MDS resident assessments equal to the greater of 20 percent of the occupied bed size of the facility or 10 assessments and shall include those transmitted assessments posted on the most current FCIR. The CMDR will determine the percentage of assessments in the sample that are unsupported MDS resident assessments. The department may review additional or alternative MDS assessments, if it is deemed necessary.

2. When conducting the CMDR, the department or its contractor shall consider all MDS supporting documentation that is provided by the nursing facility and is available to the RN reviewers prior to the exit conference. MDS supporting

documentation that is provided by the nursing facility after the exit conference shall not be considered for the CMDR.

3. Upon request by the department or its contractor, the nursing facility shall be required to produce a computer-generated copy of the transmitted MDS assessment which shall be the basis for the CMDR.

4. After the close of the CMDR, the department or its contractor will submit its findings in a Summary Review Results (SRR) letter to the facility within 10 business days following the exit conference.

5. The following corrective action will apply to those facilities with unsupported MDS resident assessments identified during an on-site CMDR.

a. If the percentage of unsupported assessments in the initial on-site CMDR sample is greater than 25 percent, the sample shall be expanded, and shall include the greater of 20 percent of the remaining resident assessments or 10 assessments.

b. If the percentage of unsupported MDS assessments in the total sample is equal to or less than the threshold percentage as shown in column (B) of the table in Subparagraph e below, no corrective action will be applied.

c. If the percentage of unsupported MDS assessments in the total sample is greater than the threshold percentage as shown in column (B) of the table in Subparagraph e below, the RUG-III, or its successor, classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the CMDR process. The facility's CMI and resulting Medicaid rate shall be recalculated for the quarter in which the FCIR was used to determine the Medicaid rate. A follow-up CMDR process described in Subparagraphs d and e may be utilized at the discretion of the department.

d. Those providers exceeding the thresholds (see column (B) of the table in Subparagraph e) during the initial on-site CMDR will be given 90 days to correct their assessing and documentation processes. A follow-up CMDR may be performed at the discretion of the department at least 30 days after the facility's 90-day correction period. The department or its contractor shall notify the facility not less than two business days prior to the start of the CMDR date. A fax, electronic mail, or other form of communication will be provided to the administrator and MDS coordinator on the same date identifying documentation that must be available at the start of the on-site CMDR.

e. After the follow-up CMDR, if the percentage of unsupported MDS assessments in the total sample is greater than the threshold percentage as shown in column (B) of the following table, the RUG-III, or its successor, classification shall be recalculated for the unsupported MDS assessments based upon the available documentation obtained during the CMDR process. The facility's CMI and resulting Medicaid rate shall be recalculated for the quarter in which the FCIR was used to determine the Medicaid rate. In addition, facilities found to have unsupported MDS resident assessments in excess of the threshold in Column (B) of the table below may be required to enter into an MDS Documentation Improvement Plan with the Department of Health and Hospitals. Additional follow-up CMDR may be conducted at the discretion of the department.

Effective Date (A)	Threshold Percent (B)
January 1, 2003	Educational
January 1, 2004	40%
January 1, 2005	35%
January 1, 2006 and beyond	25%

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2537 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

§1315. Appeal Process

A. If the facility disagrees with the CMDR findings, a written request for an informal reconsideration must be submitted to the department or its contractor within 15 business days of the facility's receipt of the CMDR findings in the SRR letter. Otherwise, the results of the CMDR findings are considered final and not subject to appeal. The department or its contractor will review the facility's informal reconsideration request within 10 business days of receipt of the request and will send written notification of the final results of the reconsideration to the facility. No appeal of findings will be accepted until after communication of final results of the informal reconsideration process.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 46:2742, and Title XIX of the Social Security Act.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2538 (December 2002), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Bruce D. Greenstein
Secretary

1010#025

DECLARATION OF EMERGENCY

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

Outpatient Hospital Services—Non-Rural, Non-State Public
Hospitals—Supplemental Payments
(LAC 50:V.5315, 5515, 5717, 5915 and 6117)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts LAC 50:V.5315, §5515,

§5717, §5915 and §6117 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

As a result of a budgetary shortfall in state fiscal year 2009, the Department of Health and Hospitals, Bureau of Health Services Financing promulgated an Emergency Rule which reduced the reimbursement rates paid to non-rural, non-state hospitals for outpatient services (Louisiana Register, Volume 35, Number 2). The final Rule was published September 20, 2009 (Louisiana Register, Volume 35, Number 9). Act 228 of the 2009 Regular Session of the Louisiana Legislature directed the department to issue a supplemental payment to hospitals that demonstrated substantial financial and operational challenges in the aftermath of Hurricanes Katrina, Rita, Gustav and Ike. In compliance with Act 228, the department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for outpatient hospital services to provide a supplemental Medicaid payment to non-rural, non-state public hospitals (Louisiana Register, Volume 35, Number 7). This Emergency Rule is being promulgated to continue the provisions of the July 1, 2009 Emergency Rule.

This action is being taken to promote the health and welfare of Medicaid recipients by ensuring sufficient provider participation in the Hospital Services Program and ensuring recipient access to providers of these medically necessary services.

Effective October 28, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing outpatient hospital services provided by non-rural, non-state public hospitals.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part V. Hospital Services

Subpart 5. Outpatient Hospitals

Chapter 53. Outpatient Surgery

Subchapter B. Reimbursement Methodology

§5315. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for outpatient surgical services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

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

2. Each eligible hospital shall receive quarterly supplemental payments which in total do not exceed a specified individualized hospital limit. Payments will be

distributed based on Medicaid paid claims data from state fiscal year 2008 service dates. Payments will end on December 31, 2010 or when the hospital specific cap is reached, whichever occurs first.

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

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

Chapter 55. Clinic Services

Subchapter B. Reimbursement Methodology

§5515. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for clinic services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

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

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

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

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

Chapter 57. Laboratory Services

Subchapter B. Reimbursement Methodology

§5717 Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for laboratory services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

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

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

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

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

Chapter 59. Rehabilitation Services

Subchapter B. Reimbursement Methodology

§5915. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for rehabilitation services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

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

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

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

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

Chapter 61. Other Outpatient Hospital Services

Subchapter B. Reimbursement Methodology

§6117. Non-Rural, Non-State Public Hospitals

A. Hurricane Katrina Impacted Hospitals. Effective for dates of service on or after July 1, 2009, a quarterly supplemental payment will be issued to qualifying non-rural, non-state public hospitals for outpatient hospital services other than clinical diagnostic laboratory services, outpatient surgeries and rehabilitation services rendered from July 1, 2009 through December 31, 2010. Maximum aggregate payments to all qualifying hospitals in this group, including inpatient supplemental payments, will not exceed \$170,000,000.

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

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

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

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

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

Bruce D. Greenstein
Secretary

1010#039

DECLARATION OF EMERGENCY

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

Pharmacy Benefits Management Program
Maximum Allowable Costs (LAC 50:XXIX.949)

The Department of Health and Hospitals, Bureau of Health Services Financing amends LAC 50:XXIX.949 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing repromulgated all of the Rules governing the Pharmacy Benefits Management Program in a codified format in Title 50 of the *Louisiana Administrative Code (Louisiana Register, Volume 32, Number 6)*. The department later promulgated a Rule (*Louisiana Register, Volume 34, Number 1*) amending the provisions of the June 20, 2006 Rule governing methods of payments in order to comply with the directives of Act 801 of the 2006 Regular Session of the Louisiana Legislature, which directed the department to submit a Medicaid State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) to increase the Medicaid dispensing fee on prescription drugs, contingent upon CMS' approval of the proposed amendment. CMS subsequently disapproved the proposed amendment to the Medicaid State Plan that had been submitted in compliance with Act 801. An Emergency Rule was later promulgated to repeal the January 20, 2008 Rule and to restore the repealed provisions of the June 20, 2006 Rule in the *Louisiana Administrative Code (Louisiana Register, Volume 36, Number 1)*.

Act 10 of the 2009 Regular Session of the Louisiana Legislature provided that the department may redefine the reimbursement methodology for multiple source drugs in establishing the state maximum allowable cost (MAC) in order to control expenditures to the level of appropriations for the Medicaid Program. In accordance with the provisions of Act 10, the department promulgated an Emergency Rule to redefine the Louisiana maximum allowable cost (LMAC) (*Louisiana Register, Volume 36, Number 1*). In addition, the dispensing fee was increased for drugs with an LMAC.

The department subsequently determined that it was necessary to repeal the January 1, 2010 Emergency Rule in its entirety and amend the provisions governing the methods of payment for prescription drugs to redefine the LMAC (*Louisiana Register*, Volume 36, Number 2). The department promulgated an Emergency Rule to amend the February 1, 2010 Emergency Rule to revise the provisions governing the methods of payment for prescription drugs to further redefine the LMAC and increase the dispensing fee (*Louisiana Register*, Volume 36, Number 3). The department determined that it was necessary to repeal the March 1, 2010 Emergency Rule in its entirety and promulgated an Emergency Rule to amend the provisions governing the methods of payment for prescription drugs to revise the LMAC provisions (*Louisiana Register*, Volume 36, Number 3). This Emergency Rule is being promulgated to continue the provisions of the March 20, 2010 Emergency Rule. This action is being taken to control expenditures in the Medical Assistance Program and to avoid a budget deficit.

Effective October 17, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing and amends the provisions governing the methods of payment for prescriptions covered under the Pharmacy Benefits Management Program.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXIX. Pharmacy

Chapter 9. Methods of Payment

Subchapter D. Maximum Allowable Costs

§949. Cost Limits

A. - B. ...

1. Louisiana Maximum Allowable Cost (LMAC) is the average actual acquisition cost of a drug, defined as the pharmacist's payment made to purchase a drug product, adjusted by a multiplier of 2.35.

2. LMAC reimbursement will apply to certain multiple source drug products that meet therapeutic equivalency, market availability, and other criteria deemed appropriate by the Louisiana Medicaid Agency. Drugs are subject to LMAC if there are at least two non-innovator multiple source alternative products available that are classified by the FDA as Category "A" in the Approved Drug Products with Therapeutic Equivalence Evaluations.

3. LMAC rates are based on the average actual acquisition cost per drug, adjusted by a multiplier of 2.35, which assures that each rate is sufficient to allow reasonable access by providers to the drug at or below the established LMAC rate. The LMAC rate will apply to all versions of a drug that share the same active ingredient combination, strength, dosage form, and route of administration.

4. Average actual acquisition cost will be determined through a semi-annual collection and review of pharmacy invoices and other information deemed necessary by the Louisiana Medicaid Agency and in accordance with applicable State and Federal law.

5. In addition to the semi-annual review, the Louisiana Medicaid Agency will evaluate on an ongoing basis throughout the year and adjust the rates as necessary to reflect prevailing market conditions and to assure that pharmacies have reasonable access to drugs at or below the applicable LMAC rate. Providers shall be given advance notice of any additions, deletions, or adjustments in price. A

complete LMAC rate listing will be available to providers and updated periodically.

6. In no case shall a recipient be required to provide payment for any difference in a prescription price that may occur with implementation of the LMAC limit, nor may BHSF use a cost which exceeds the established maximums except for physician certification for brand name drugs.

C. - E.2. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1065 (June 2006), amended LR 34:88 (January 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:

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

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

Alan Levine
Secretary

1006#101

DECLARATION OF EMERGENCY

Department of Health and Hospitals Bureau of Health Services Financing

Professional Services Program
Reimbursement Methodology
Supplemental Payments
(LAC 50:IX.15151 and 15153)

The Department of Health and Hospitals, Bureau of Health Services Financing adopts §15151 and §15153 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Emergency Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(B)(1) et seq., and shall be in effect for the maximum period allowed under the Act or until adoption of the final Rule, whichever occurs first.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopted provisions in the Professional Services Program to provide supplemental payments to physicians and other eligible professional service practitioners employed by state-owned or operated entities (*Louisiana Register*, Volume 32, Number 6). The department promulgated an Emergency Rule which amended the provisions governing the reimbursement methodology for professional services to provide a supplemental payment to physicians and other professional practitioners employed by, or under contract with, non-state owned or operated governmental entities (*Louisiana Register*, Volume 36, Number 6). In addition, this Emergency Rule also repromulgated the provisions of the

June 20, 2006 Rule in a codified format for inclusion in the *Louisiana Administrative Code*. This Emergency Rule is being promulgated to continue the provisions of the July 1, 2010 Emergency Rule. This action is being taken to promote the health and welfare of Medicaid recipients by encouraging continued provider participation in the Medicaid Program and ensuring recipient access to services. It is estimated that implementation of this Emergency Rule will increase expenditures in the Professional Services Program by approximately \$2,000,000 for state fiscal year 2010-2011.

Effective October 30, 2010, the Department of Health and Hospitals, Bureau of Health Services Financing amends the provisions governing the reimbursement methodology for services rendered by physicians and other professional service practitioners.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter F. Supplemental Payments

§15151. Qualifying Criteria—State Owned or Operated Professional Services Practices

A. In order to qualify to receive supplemental payments, physicians and other eligible professional service practitioners must be:

1. licensed by the state of Louisiana;
2. enrolled as a Louisiana Medicaid provider; and
3. employed by a state-owned or operated entity, such as a state-operated hospital or other state entity, including a state academic health system, which:
 - a. has been designated by the bureau as an essential provider; and
 - b. has furnished satisfactory data to DHH regarding the commercial insurance payments made to its employed physicians and other professional service practitioners.

B. The supplemental payment to each qualifying physician or other eligible professional services practitioner in the practice plan will equal the difference between the Medicaid payments otherwise made to these qualifying providers for professional services and the average amount that would have been paid at the equivalent community rate. The community rate is defined as the average amount that would have been paid by commercial insurers for the same services.

C. The supplemental payments shall be calculated by applying a conversion factor to actual charges for claims paid during a quarter for Medicaid services provided by the state-owned or operated practice plan providers. The commercial payments and respective charges shall be obtained for the state fiscal year preceding the reimbursement year. If this data is not provided satisfactorily to DHH, the default conversion factor shall equal one. This conversion factor shall be established annually for qualifying physicians/practitioners by:

1. determining the amount that private commercial insurance companies paid for commercial claims submitted by the state-owned or operated practice plan or entity; and
2. dividing that amount by the respective charges for these payers.

D. The actual charges for paid Medicaid services shall be multiplied by the conversion factor to determine the maximum allowable Medicaid reimbursement. For eligible non-physician practitioners, the maximum allowable Medicaid reimbursement shall be limited to 80 percent of this amount.

E. The actual base Medicaid payments to the qualifying physicians/practitioners employed by a state-owned or operated entity shall then be subtracted from the maximum Medicaid reimbursable amount to determine the supplemental payment amount.

F. The supplemental payment for services provided by the qualifying state-owned or operated physician practice plan will be implemented through a quarterly supplemental payment to providers, based on specific Medicaid paid claim data.

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

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

§15153. Qualifying Criteria—Non-State Owned or Operated Professional Services Practices

A. Effective for dates of service on or after July 1, 2010, physicians and other professional service practitioners who are employed by, or under contract with, a non-state owned or operated governmental entity, such as a non-state owned or operated public hospital, may qualify for supplemental payments for services rendered to Medicaid recipients. To qualify for the supplemental payment, the physician or professional service practitioner must be:

1. licensed by the state of Louisiana; and
2. enrolled as a Louisiana Medicaid provider.

B. The supplemental payment will be determined in a manner to bring payments for these services up to the community rate level.

1. For purposes of these provisions, the community rate shall be defined as the rates paid by commercial payers for the same service.

C. The non-state governmental entity shall periodically furnish satisfactory data for calculating the community rate as requested by DHH.

D. The supplemental payment amount shall be determined by establishing a Medicare to community rate conversion factor for the physician or physician practice plan. At the end of each quarter, for each Medicaid claim paid during the quarter, a Medicare payment amount will be calculated and the Medicare to community rate conversion factor will be applied to the result. Medicaid payments made for the claims paid during the quarter will then be subtracted from this amount to establish the supplemental payment amount for that quarter.

E. The supplemental payments shall be made on a quarterly basis and the Medicare to community rate conversion factor shall be recalculated periodically as determined by the department.

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

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

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

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

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

Bruce D. Greenstein
Secretary

1006#096

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

2010-2011 Waterfowl Seasons

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the Secretary of the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following Emergency Rule.

The hunting season for ducks, coots and geese during the 2010-2011 hunting season shall be as follows:

Ducks and Coots: 60 day

West Zone: November 13 - December 5
December 18 - January 23
East Zone: November 20 - December 5
(Including December 18 - January 30
Catahoula Lake)

Youth Waterfowl Weekend - November 6-7 in West Zone, November 13-14 in East Zone

Daily Bag Limits: The daily bag limit on ducks is 6 and may include no more than 4 mallards (no more than 2 of which may be females), 1 canvasback, 1 mottled duck, 1 black duck, 3 wood ducks, 2 scaup, 2 redheads, and 2 pintails.

Daily bag limit on coots is 15.

Mergansers - The daily bag limit for mergansers is 5, only 2 of which may be hooded mergansers. Merganser limits are in addition to the daily bag limit for ducks.

Possession Limit - The possession limit on ducks, coots and mergansers is twice the daily bag limit.

Geese:

Light Geese (Snow, Blue and Ross's) and

White-Fronted Geese

West Zone: November 13 - December 5
(72 days) December 18 - February 4
East Zone: November 8 - December 5
(72 days) December 18 - January 30

Daily bag limit on light geese (snow, blue and Ross's): 20

Possession limit on light geese (snow, blue and Ross's): None

Daily Limit on white-fronted geese: 2

Possession Limit on white-fronted geese: 4

NOTE: During the open Canada goose season, the daily bag limit is 2 dark geese (White-fronted and Canada) no more than 1 of which may be a Canada goose.

Canada Geese: Closed in the Area Described Below

December 18 - January 30

Daily Limit on Canada geese: 1 in aggregate with White-fronts

Possession limit on Canada geese: 2 in aggregate with White-fronts

NOTE: During the open Canada goose season, the daily bag limit is 2 dark geese (White-fronted and Canada) no more than 1 of which may be a Canada.

The Canada goose Season will be open statewide except for a portion of southwest Louisiana. The closed area is described as follows: Beginning at the Texas State Line, proceeding east along Hwy. 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Hwy. 82, then south along LA Hwy. 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas State Line, then north to the point of beginning at LA Hwy. 82.

Conservation Order for Light Geese

(Snow, Blue and Ross's):

West Zone: December 6 - December 17
February 5 - March 13
East Zone: December 6 - December 17
January 31 - March 13

Only snow, blue and Ross's geese may be taken under the terms of the Conservation Order, which allows the use of electronic calls and unplugged shotguns and eliminates the daily bag and possession limits. During the Conservation Order, shooting hours begins one-half hour before sunrise and extends until one-half hour after sunset.

Rails: November 13 - January 5

King and Clapper: Daily bag limit 15 in the aggregate, Possession 30.

Sora and Virginia: Daily bag and possession 25 in the aggregate.

Gallinules: November 13 - January 5
Daily bag limit 15,
Possession limit 30

Snipe: November 6 - December 10
December 18 - February 27
Daily bag limit 8,
Possession limit 16

Shooting Hours: One-half hour before sunrise to sunset, except at the Spanish Lake Recreation Area in Iberia Parish where shooting hours, including the Conservation Order, end at 2 p.m.

Extended Falconry Seasons for Ducks,

Rails and Gallinules:

Statewide: November 6 - February 4

(16 days of the total season lengths for rails, gallinules and extended falconry seasons were used during the September teal season.)

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 2010 and extend through one-half hour after sunset on March 13, 2011.

Robert J. Barham
Secretary

1010#086

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Commercial and Recreational Fisheries
Opening—Fishing West of Bayou Lafourche

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on September 2, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the Secretary hereby opens to recreational and commercial fishing except for the harvest of oysters in that portion of state inside waters north of 29 degrees 09 minutes 00 seconds north latitude and south of 29 degrees 12 minutes 50 seconds north latitude from the western shore of Bayou Lafourche westward to 90 degrees 17 minutes 50 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 03 minutes 00 seconds north latitude and south of 29 degrees 09 minutes 00 seconds north latitude from 90 degrees 13 minutes 30 seconds west longitude and the western shore of Bayou Lafourche westward to 90 degrees 34 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 02 minutes 00 seconds north latitude and south of 29 degrees 05 minutes 00 seconds north latitude from 90 degrees 37 minutes 00 seconds west longitude westward to 90 degrees 58 minutes 00 seconds west longitude effective September 24, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The Secretary has determined that these portions of state inside and outside waters shall open to recreational and commercial fishing except for the harvest of oysters September 24, 2010.

Robert J. Barham
Secretary

1010#005

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Closure

In accordance with the emergency provisions of R.S. 49:953 of the Administrative Procedure Act, and under the authority of R.S. 56:6.1, the Wildlife and Fisheries Commission hereby closes all commercial fishing, effective immediately October 7, 2010, in the following area:

That portion of state inside waters south of the northern shore of Pass a Loutre and the Mississippi River Channel at 29 degrees 09 minutes 00 seconds north latitude westward to the western shore of Southwest Pass of the Mississippi River, and that portion of state outside territorial waters south of 29 degrees 12 minutes 40 seconds north latitude westward to 89 degrees 25 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 15 minutes 00 seconds north latitude 89 degrees 32 minutes 00 seconds west longitude, 2) 29 degrees 13 minutes 40 seconds north latitude 89 degrees 33 minutes 00 seconds west longitude, 3) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 48 minutes 00 seconds west longitude, 4) 29 degrees 20 minutes 00 seconds north latitude 89 degrees 48 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 18 minutes 00 seconds north latitude and south of 29 degrees 22 minutes 00 seconds north latitude from 89 degrees 48 minutes 00 seconds west longitude westward to 89 degrees 52 minutes 00 seconds west longitude, and that portion of state inside waters north of 29 degrees 23 minutes 00 seconds north latitude and south of 29 degrees 30 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to the eastern shore of the Barataria Waterway, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 21 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 2) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 10 seconds north latitude 89 degrees 57 minutes 30 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 08 minutes 15 seconds north latitude and south of 29 degrees 11 minutes 40 seconds north latitude from 90 degrees 03 minutes 00 seconds west longitude westward to 90 degrees 07 minutes 00 seconds west longitude.

Recreational fishing is open in all state inside and outside territorial waters, except in the following areas, where only recreational angling and charter boat angling is allowed: that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 15 minutes 00 seconds north latitude 89 degrees 32 minutes 00 seconds

west longitude, 2) 29 degrees 13 minutes 40 seconds north latitude 89 degrees 33 minutes 00 seconds west longitude, 3) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 48 minutes 00 seconds west longitude, 4) 29 degrees 20 minutes 00 seconds north latitude 89 degrees 48 minutes 00 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 18 minutes 00 seconds north latitude and south of 29 degrees 22 minutes 00 seconds north latitude from 89 degrees 48 minutes 00 seconds west longitude westward to 89 degrees 52 minutes 00 seconds west longitude, and that portion of state inside waters north of 29 degrees 23 minutes 00 seconds north latitude and south of 29 degrees 30 minutes 00 seconds north latitude from 89 degrees 50 minutes 00 seconds west longitude westward to the eastern shore of the Barataria Waterway, and that portion of state inside and outside territorial waters bounded by the following coordinates: 1) 29 degrees 21 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 2) 29 degrees 18 minutes 00 seconds north latitude 89 degrees 52 minutes 00 seconds west longitude, 3) 29 degrees 15 minutes 40 seconds north latitude 89 degrees 56 minutes 00 seconds west longitude, 4) 29 degrees 17 minutes 10 seconds north latitude 89 degrees 57 minutes 30 seconds west longitude, and that portion of state inside and outside territorial waters north of 29 degrees 08 minutes 15 seconds north latitude and south of 29 degrees 11 minutes 40 seconds north latitude from 90 degrees 03 minutes 00 seconds west longitude westward to 90 degrees 07 minutes 00 seconds west longitude.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of Louisiana's coastal waters. Efforts have been made and are continuing to minimize the potential threats to fish and other aquatic life.

The commission hereby grants authority to the secretary of the Department of Wildlife and Fisheries to open, close, reopen-reclose, broaden or otherwise modify the areas closed and opened to fishing if biological, environmental and technical data indicate the need to do so, or as needed to effectively implement the provisions herein.

Stephen J. Oats
Chairman

1010#085

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational and Commercial Fisheries Opening—Fishing East of Mississippi River

In accordance with the emergency provisions of R.S. 49:953.B and R.S. 49:967.D of the Administrative Procedure Act, which allows the Wildlife and Fisheries Commission to use emergency procedures to set shrimp seasons, and R.S. 56:6.1 which provides the Secretary of the Department of

Wildlife and Fisheries with authority to declare a closed season on any and all species of fish found or existing in the waters of the state, and a declaration of emergency adopted by the Wildlife and Fisheries Commission on September 2, 2010 which grants authority to the secretary to broaden or to reopen the area closed to fishing if biological and technical data indicate the need to do so, the secretary hereby opens to recreational fishing that portion of state inside and outside waters east of the Mississippi River north of 29 degrees 59 minutes 30 seconds north latitude and south of the Mississippi/Louisiana state line from the Louisiana territorial sea boundary westward to 89 degrees 15 minutes 00 seconds west longitude, and that portion of state inside and outside waters north of 29 degrees 36 minutes 30 seconds north latitude and south of 29 degrees 59 minutes 30 seconds north latitude from the Louisiana territorial sea boundary westward to a line extending 1 mile westward from the western shore of the Chandeleur Islands, and that portion of state inside waters north of 29 degrees 45 minutes 00 seconds north latitude and south of 29 degrees 59 minutes 30 seconds north latitude from 89 degrees 09 minutes 00 seconds west longitude westward to 89 degrees 15 minutes 00 seconds west longitude and opens to commercial fishing except for the harvest of oysters in that portion of state inside and outside waters east of the Mississippi River north of 29 degrees 59 minutes 30 seconds north latitude and south of the Mississippi/Louisiana state line from the Louisiana territorial sea boundary westward to 89 degrees 15 minutes 00 seconds west longitude, and that portion of state inside and outside waters north of 29 degrees 36 minutes 30 seconds north latitude and south of 29 degrees 59 minutes 30 seconds north latitude from the Louisiana territorial sea boundary westward to a line extending 1 mile westward from the western shore of the Chandeleur Islands, and that portion of state inside waters north of 29 degrees 45 minutes 00 seconds north latitude and south of 29 degrees 59 minutes 30 seconds north latitude from 89 degrees 09 minutes 00 seconds west longitude westward to 89 degrees 15 minutes 00 seconds west longitude, and that portion of state inside waters north of 29 degrees 47 minutes 00 seconds north latitude and south of 29 degrees 51 minutes 00 seconds north latitude from 89 degrees 15 minutes 00 seconds west longitude westward to 89 degrees 22 minutes 00 seconds west longitude effective September 23, 2010.

The Deepwater Horizon drilling rig accident has resulted in a significant release of hydrocarbon pollutants into the waters offshore of southeast Louisiana and these pollutants have the potential to impact fish and other aquatic life in portions of these coastal waters. Efforts have been made and are continuing to be made to minimize the potential threats to fish and other aquatic life. The secretary has determined that these portions of state inside and outside waters shall open to recreational and commercial fishing except for the harvest of oysters September 23, 2010.

Robert J. Barham
Secretary

1010#006

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Recreational Red Snapper Reopening

The recreational season for the harvest of red snapper in Louisiana state waters has previously been closed at 11:59 p.m. on July 23, 2010. The secretary has been informed that the recreational season for red snapper in the federal waters of the Gulf of Mexico off the coast of Louisiana will re-open at 12:01 a.m. on Friday, October 1, 2010, and will remain open for each Friday, Saturday, and Sunday until 12:01 a.m., November 22, 2010, at which time the season will close and remain closed until 12:01 a.m. on June 1, 2011, when the season is scheduled to re-open in both state and federal waters. This Declaration of Emergency for Louisiana state waters closes this season two minutes prior to the announced closure of the federal waters since it provides clarity in the language of the rule.

In accordance with the provisions of R.S. 49:953(B), which allows the Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission to use seasonal rules to set finfish seasons, R.S. 56:326.3 which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, and the authority given to the secretary of the department by the commission in its resolution of January 7, 2010 to modify opening and closing dates of 2010

recreational red snapper seasons in Louisiana state waters when he is informed by the Regional Director of NOAA Fisheries that the season dates have been modified in adjacent Federal waters, and that NOAA Fisheries requests that the season be modified in Louisiana State waters, the Secretary hereby declares:

The recreational fishery for red snapper in Louisiana waters will re-open at 12:01 a.m. on Friday, October 1, 2010, and remain open for each Friday, Saturday, and Sunday until 12:01 a.m., November 22, when it shall close and remain closed until 12:01 a.m., June 1, 2011. No person shall recreationally harvest or possess red snapper whether within or without Louisiana waters outside of the open dates and times set out herein. The secretary has been notified by NOAA Fisheries that the recreational red snapper season in Federal waters of the Gulf of Mexico will re-open at 12:01 a.m. on Friday, October 1, 2010, and will be open for each Friday, Saturday, and Sunday until 12:01 a.m., November 22, when the season will close and remain closed until 12:01 a.m. June 1, 2011. Having compatible season regulations in State waters is necessary to provide effective rules and efficient enforcement for the fishery, to prevent overfishing of this species in the long term.

Robert J. Barham
Secretary

1010#003

Rules

RULE

Department of Children and Family Services Economic Stability and Self-Sufficiency Section

Family Violence Prevention and Intervention Program (LAC 67:III.5509)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Department of Children and Family Services, has amended the LAC 67:III.5509, Domestic Violence Services.

Pursuant to Act 10 of the Regular Session of the Louisiana Legislature, the agency has amended Section 5509, Domestic Violence Services, to include males ages 18 and over to the audience targeted to receive education and training addressing the problem of statutory rape. Additionally, the name is being changed to Family Violence Prevention and Intervention Program to more accurately reflect the services being provided.

This Rule was made effective by an Emergency Rule dated May 21, 2010.

Title 67

SOCIAL SERVICES

Part III. Family Support

Subpart 15. Temporary Assistance for Needy Families (TANF) Initiatives

Chapter 55. TANF Initiatives

§5509. Family Violence Prevention and Intervention Program

A. The Department of Children and Family Services shall enter into Memoranda of Understanding or contracts to provide services for victims of domestic violence and their children, including rural outreach and community collaboration training for the purpose of educating attendees about domestic violence and the available services provided by the Department of Children and Family Services including but not limited to TANF, Supplemental Nutrition Assistance Program, Child Care, and Employment Training. Additionally, these services will include education and training addressing the problem of statutory rape. These programs are designed to not only reach the public, but also law enforcement officials, educators, relevant counseling services, and males 18 and older.

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with 42 U.S.C. 601 et seq.; R.S. 46:231 and R.S. 36:474; HB 1 2006 Reg. Session, Act 18, 2007 Reg. Session, Act 10, 2009 Reg. Session.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 32:2099 (November 2006), amended LR 33:2205 (October 2007), LR 34:693 (April 2008), LR 34:2415 (November 2008), Department of Children and Family Services, Economic Stability and Self-Sufficiency Section, LR 36:2236 (October 2010).

Ruth Johnson
Secretary

1010#078

RULE

Department of Economic Development Office of Entertainment Industry Development

Musical and Theatrical Production Income Tax Credit Program—Recodification (LAC 61.I.1690-1699)

The Office of the State Register in conjunction with the Department of Economic Development, Office of Entertainment Industry Development has recodified LAC 61.I.Chapter 16.Subchapter B as LAC 61.I.Chapter 16.Subchapter E. This move was done to create room for other related material. The Section numbers were changed as follows.

Old Numbering Arrangement	Current Numbering Arrangement
§1615	§1690
§1617	§1691
§1619	§1692
§1621	§1693
§1623	§1695
§1625	§1697
§1627	§1699

Title 61

REVENUE AND TAXATION

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

Chapter 16. Louisiana Entertainment Industry Tax Credit Programs

Subchapter E. Musical and Theatrical Production Income Tax Credit Program

Editor's Note: This Subchapter was moved from its original codified Sections in Subchapter B to create room for other related material.

§1690. Purpose

A. The purpose of this Chapter is to administer the Musical and Theatrical Production Income Tax Credit Program as established by R.S. 47:6034.

B. The purpose of this program is to encourage development of the state as a leader in the live performance industry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2173 (October 2009), repromulgated LR 36:2236 (October 2010).

§1691. General Description

A. The program offers five types of tax credits, which fall into two categories:

1. productions:

a. qualified production expenses made from investments in a state-certified musical or theatrical production;

b. qualified transportation costs for performance related property;

c. payroll of Louisiana residents employed in connection with a state-certified musical or theatrical production;

d. employment of Louisiana college, universities and vocational-technical students in connection with a state-certified musical or theatrical production;

2. infrastructure projects:

a. construction of new facilities, or repair or renovation of existing facilities related to such productions and performances.

B. Tax credits are earned in the calendar year expended, to the extent the expenditures receive final certification from the department.

C. Tax credits associated with a state-certified musical or theatrical production or a state-certified musical or theatrical facility infrastructure project shall never exceed the total base investment in that production or infrastructure project and transportation expenditures.

D. Tax credits shall be available on a first come, first served basis, based upon date of final certification and qualification of expenditures. If the total amount of credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

E. Base investment tax credits shall be transferable only once.

F. No tax credits shall be granted under this program until the rules are approved by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs, in accordance with the provisions of the Administrative Procedures Act.

G. Applicants may apply for more than one entertainment tax credit program administered by the department, provided that:

1. separate applications are submitted for each program;

2. expenditures shall only qualify for one specified program; and

3. multiple applications shall not result in any duplication of tax credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2173 (October 2009), repromulgated LR 36:2236 (October 2010).

§1692. Definitions

A. Terms not otherwise defined in this Chapter shall have the same meaning given to them in R.S. 47:6034, unless the context clearly requires otherwise.

B. In this Chapter, the following terms shall have the meanings provided herein, unless the context clearly indicates otherwise.

Base Investment—actual investment made and expended in this state by a state-certified musical or theatrical production:

a. as production-related costs; or

b. as capital costs of a state-certified musical or theatrical facility infrastructure project.

Begin Construction—construction of an infrastructure project shall be deemed to begin when:

a. In the case of construction a new building, either:

i. materials to be used in the project, representing at least 5 percent of total budgeted costs, are placed on the project site; or

ii. other work representing at least 5 percent of the preliminary construction budget and visible from a simple inspection (such as landfill, soil reinforcement or pouring a foundation) is performed on the site. (Such "other work" shall not include services in preparation for construction such as surveying, engineering, cutting or removal of trees, demolition of existing structures, clearing the land surface.)

b. In the case of repairs to or renovation of an existing structure:

i. materials to be used in the project, representing at least 10 percent of the total budgeted costs of materials, are placed at the project site; or

ii. written evidence of other work representing at least 10 percent of the preliminary construction budget, is submitted for approval to the department. Such other work may include research, planning and design purposes, such as environmental studies as may be required for historic renovation projects.

Department—Louisiana Department of Economic Development, or its successor, represented by its secretary or his designee.

Director—Director of the Office of Entertainment Industry Development or his designee.

Expended in the State or Expenditures in the State—shall mean:

a. an expenditure to acquire or lease immovable property located in the state;

b. an expenditure to acquire movable property from a source within the state which is subject to state sales and use tax; or

c. an expenditure as compensation for services performed within the state which is subject to state income tax.

Expenditure—actual payment of cash or cash equivalent for goods or services, as evidenced by an invoice, receipt, or other such document.

Indirect costs—costs of operation that are not directly associated with a specific production, such as clerical salaries and general administrative costs.

Limited State-Certified Musical or Theatrical Production—a musical or theatrical production or a series of productions occurring in Louisiana by a non-profit community theater that held a public performance before an audience within this state during the 2008 calendar year which has been certified, verified, and approved in accordance with R.S. 47:6034(B)(11).

Louisiana Resident—

a. a natural person who:

i. is a Louisiana domiciliary;

ii. maintains a permanent place of abode within Louisiana and spends in the aggregate more than six months of each year in Louisiana; or

b. pays taxes to Louisiana on the amount of money paid to such person for which a tax credit is sought.

c. a company:

i. in which a Louisiana resident has ownership or control;

ii. organized or authorized to do business in Louisiana;

iii. that lends the services of such Louisiana resident for a state-certified musical or theatrical production; and

iv. pays taxes to Louisiana on the amount of money paid to such person for such services.

Non-Profit Community Theater—a non-profit resident theater or producing organization incorporated as a 501(C)(3) organization recognized by the Louisiana Secretary of State.

Office—Office of Entertainment Industry Development.

Originate—shall include, but not be limited to, state-certified musical or theatrical productions which are:

- a. pre-Broadway try-outs;
- b. resident or regional productions;
- c. national touring companies producing their first public performance in Louisiana; or
- d. concert tours producing their first public performance in Louisiana.

Payroll—all salary, wages, and other compensation, including related benefits, for services performed in Louisiana.

Production Expenditures—a contemporaneous exchange of cash or cash equivalent for goods or services related to development, production, or operating expenditures in this state for a state-certified production as follows.

a. Eligible expenditures shall include, but not be limited to set construction and operation, special and visual effects, costumes, wardrobes, make-up accessories, costs associated with sound, lighting, staging, payroll and other related costs.

b. Ineligible expenditures shall include, but not be limited to any expenditures later reimbursed by a third party, any costs related to the transfer of tax credits, and any other indirect costs.

Secretary—Secretary of the Department of Economic Development, or his designee.

State-Certified Musical or Theatrical Infrastructure Project—a capital infrastructure project in the state directly related to the production or performance of musical or theatrical productions as defined in this Section, and movable and immovable property and equipment related thereto, or any other facility which supports and is a necessary component of such facility, and any expenditures in the state related to the construction, repair, or renovation of such project, which are certified, verified, and approved as provided for in this Section.

State-Certified Musical or Theatrical Production—a concert, musical or theatrical production, or a series of productions occurring over the course of a 12-month period, and the recording or filming of such production, which originate, are developed, or have their initial public performance before a paying audience within Louisiana, or which have their United States debut within Louisiana, and the production expenditures, expenditures for the payroll of residents, transportation expenditures, and expenditures for employing college and vocational-technical students related to such production or productions, that are certified, verified, and approved as provided for in this Section. Non-qualifying projects include, but are not limited to non-

touring music and cultural festivals, industry seminars and trade shows.

Student—a natural person enrolled in a Louisiana higher education facility, such as a college, university, or a vocational-technical college.

Transferee—an individual or entity that receives a transfer of base investment tax credits.

Transferor—an individual or entity that makes a transfer of base investment tax credits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2173 (October 2009), repromulgated LR 36:2237 (October 2010).

§1693. Certification Procedures

A. Application

1. An application for a state-certified production or a state-certified infrastructure project shall be submitted to the department, including:

- a. all information required by R.S. 47:6034(E)(2)(a);
- b. an application fee of 0.2 percent of the estimated total tax credits, with a minimum fee of \$200, and a maximum fee of \$5,000; and
- c. the applicant shall provide additional information upon request.

2. Each application shall identify only one production or infrastructure project and only one contact person for such production or project.

B. Qualification

1. The department shall determine whether a production or infrastructure project qualifies, by meeting all requirements of R.S. 47:6034 and these regulations, and taking the following factors into consideration:

- a. the contribution of the production or infrastructure project to establishing the state as a leader in the live performance industry;
- b. the impact of the production or infrastructure project on the employment of Louisiana residents;
- c. the impact of the production or infrastructure project on the overall economy of the state;
- d. in the case of productions, the potential for students to gain work experience in an arts related position;
- e. in the case of infrastructure projects, the availability and kind of existing facilities in the proposed area.

C. Initial Certification

1. Upon finding the production or infrastructure project qualifies, the department shall issue an initial certification letter which shall include:

- a. classification as a state-certified production or state-certified infrastructure project;
- b. a unique identifying number;
- c. the total base investment to be expended;
- d. the persons to whom tax credits are to be allocated and the estimated amount of tax credits allocated to each; and
- e. for state-certified infrastructure projects, the years in which tax credits may be taken or transferred.

2. Brand. As a condition for receiving tax credits, state certified productions and infrastructure projects may be

required to display the state brand or logo. Any such requirement will be detailed in the initial certification letter.

3. Duration of Effect

a. The applicant shall countersign the initial certification letter, acknowledging the conditions therein stated, and return an original to the department within 30 business days of receipt.

b. If a countersigned original is not returned to the department, within the allotted time frame, it shall be nullified unless reissued or confirmed by the department.

c. For productions, initial certification shall be effective for a period of 12 months prior to and 12 months after the date of initial certification.

i. Productions returning to the state after Broadway performances shall be eligible for recertification, provided that the production returns to the state within 24 months of the date of original certification.

D. Final Certification and Audit Requirements

1. After review and upon a determination of qualification and initial certification, an applicant may obtain final certification as follows.

a. A cost report shall be submitted by the applicant, certified by an independent certified public accountant and complying with the minimum standards as required by R.S. 47:6034.

b. The cost report may be subject to additional audit at the applicant's expense. The department shall select the auditor and determine the audit standards.

c. Additional information may be requested in order to make a determination of eligibility.

d. The department shall review the cost report and supporting information, and following verification of qualifying expenditures, shall issue a final tax credit certification letter.

e. Multiple requests for final certification may be submitted.

i. Each submission must be accompanied by an audited cost report indicating expenditures.

ii. Two submissions shall be certified at no additional fee by the department.

iii. Additional charges may apply for three or more certification requests.

E. Appeal Process

1. In the event that an application for certification is denied, the applicant may appeal as follows.

a. An applicant may appeal within 30 days from receipt of a denial. A rebuttable presumption of receipt will occur from the sending of the denial by electronic mail to an address provided by the applicant or by a return receipt evidencing delivery by U.S. Postal Service or private carrier.

b. The appeal is made by delivery of a written objection with supporting documentation to the secretary.

c. The secretary shall review the objection and supporting documentation and provide the applicant with a written response within 30 business days. This written response shall be the final agency determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2175 (October 2009), repromulgated LR 36:2238 (October 2010).

§1695. Additional Program Procedures—Production

A. Production Expenses Made from Investment in State-Certified Musical or Theatrical Productions

1. Qualification of Tax Credits

a. The department shall determine which production expenditures qualify under these regulations and the terms of R.S. 47:6034.

b. Examples of qualifying expenditures are set forth in R.S. 47:6034(B)(6)(a).

2. Duration of Tax Credits

a. Tax credits may be granted under R.S. 47:6034 until such statute is amended, modified or repealed.

3. Amount of and Limitations upon Tax Credits

a. Tax credits shall be available on a first come, first served basis, based upon date of final certification and qualification of expenditures. If the total amount of credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year.

b. For State Certified Musical or Theatrical Productions

i. If the total base investment is more than \$100,000 dollars, but less than \$300,000 dollars, a tax credit of 10 percent applies.

ii. If the total base investment is more than \$300,000 dollars, but less than \$1,000,000 dollars, a tax credit of 20 percent applies.

iii. If the total base investment is more than \$1,000,000 dollars, a tax credit of 25 percent applies.

c. For Limited State-Certified Musical or Theatrical Productions

i. A tax credit may be granted for base investments made by non-profit community theaters for each of the 2009 and 2010 calendar years.

ii. If the total base investment is more than \$25,000 but less than \$300,000, a tax credit of 10 percent of the base investment applies.

iii. Applicants shall be limited to a maximum of two applications per year, for the 2009 and 2010 calendar years.

iv. The total amount of tax credits eligible to be issued shall not exceed \$250,000 for each of the calendar years 2009 and 2010.

4. Earning of Tax Credits

a. Credits are earned when qualified expenditures receive final certification.

b. A state certified production may submit multiple requests for final certification.

c. Tax credits associated with a state-certified musical or theatrical production shall never exceed the total base investment in that production and transportation expenditures.

B. Transportation Costs for Performance-Related Property

1. The department shall determine which transportation expenditures qualify under these regulations and the terms of R.S. 47:6034.

2. Transportation expenditures shall mean:

a. type of services covered shall include, but not be limited to:

- i. packaging;
- ii. crating; and
- iii. transportation;
- b. items covered, shall include but not be limited to:
 - i. sets;
 - ii. costumes; or
 - iii. other tangible property whether such items are manufactured in or out of the state;
- c. transportation with a Louisiana nexus, with transportation either:
 - i. to the state, for use in a state certified production; or
 - ii. from the state, after use in a state certified production.
 - iii. provided that services are purchased through a company which has a significant business presence in Louisiana;
 - iv. significant business presence in the state shall mean a transportation company that:
 - (a). is registered to do business in the state;
 - (b). has one office in the state; and
 - (c). employs at least one full-time employee in the state.

3. An additional tax credit shall apply for qualified transportation expenditures that receive final certification, as follows:

- a. 100 percent for qualified expenditures incurred until December 31, 2010;
- b. 50 percent for qualified expenditures incurred between January 1, 2011 and December 31, 2011;
- c. 25 percent for qualified expenditures incurred between January 1, 2012 and December 31, 2012;
- d. no credits are available for transportation expenditures incurred after December 31, 2012.

C. Employment of State Residents

- 1. An additional 10 percent tax credit shall be available for payroll expenditures of state residents.
- 2. No more than \$1,000,000 paid to a single person shall be eligible for payroll tax credit.
- 3. This payroll tax credit may not be combined with the student tax credit component of R.S. 47:6034.

D. Employment of College and Vocational-Technical Students

- 1. An additional 0.10 percent tax credit shall be available for production expenditures of students in connection with a state-certified musical or theatrical production, including but not limited to, the following positions:
 - a. actor;
 - b. writer;
 - c. producer;
 - d. stage hand;
 - e. director or technical positions relating to lighting, sound, actual stage work; and
 - f. positions indirectly serving the production in accounting, law, management and marketing.
- 2. This tax credit may not be combined with the state resident tax credit component of R.S. 47:6034.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2175 (October 2009), repromulgated LR 36:2239 (October 2010).

§1697. Certification Procedures—Infrastructure

A. Qualification of the Infrastructure Project

- 1. Tax credits may be granted only for:
 - a. infrastructure projects directly related to the production or performance of musical or theatrical productions;
 - b. equipment, movable and immovable property related thereto; and
 - c. any other facility which supports and is a necessary component of such a facility.

2. The department shall determine which projects are "directly related" to the production or performance of musical or theatrical productions, taking into consideration all relevant factors such as; the frequency of performances, the configuration of stage and seating, and the presence of specialized lighting and/or sound equipment.

3. The department shall determine whether a facility "supports" or is a "necessary component" of a state certified infrastructure project. Examples of qualifying facilities would be a parking garage, gift shop or costume storage. Examples of non-qualifying facilities would be hotels, golf courses and shopping centers.

4. The department shall determine whether a "multi-purpose" infrastructure project qualifies under the terms of R.S. 47:6034.

a. Upon a determination of qualification as a multi-purpose infrastructure project, the applicant must provide contractual assurances that:

- i. the facility will be used to produce or support musical or theatrical productions, for the useful life of the facility;
- ii. the useful life of the facility shall be determined by the department and shall be set forth in the initial certification.

B. Duration of Tax Credit

1. Tax credits may be granted under R.S. 47:6034 until January 1, 2014.

C. Amount of and Limitations upon Tax Credit

- 1. If the total base investment is more than \$100,000, but less than \$300,000, a tax credit of 10 percent applies.
- 2. If the total base investment is more than \$300,000, but less than \$1,000,000, a tax credit of 20 percent applies.
- 3. If the total base investment is more than \$1,000,000, a tax credit of 25 percent applies.
- 4. No more than \$10,000,000 may be granted per state certified infrastructure project.
- 5. No more than \$60,000,000 may be granted, per year, for all state certified infrastructure projects.

a. Tax credits shall be available on a first come, first served basis, based upon date of final certification and qualification of expenditures. If the total amount of credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for that year, the excess shall be treated as having been applied for on the first day of the subsequent year,

RULE

Board of Elementary and Secondary Education

Bulletin 111—The Louisiana School, District, and State Accountability System (LAC 28:LXXXIII.302, 603, 611, 613, 708, 4001, and 4003)

b. Fifty percent of the tax credits annually granted for infrastructure projects shall be reserved for projects located outside of Jefferson and Orleans parishes, provided that the availability of tax credits for infrastructure projects in Jefferson and Orleans parishes shall not be conditioned upon the granting of infrastructure tax credits for projects outside of those parishes.

D. Earning of Tax Credits

1. Construction of the infrastructure project shall begin within six months of the date of initial certification.

2. Credits are earned when qualified expenditures receive final certification.

3. An infrastructure project may submit multiple requests for final certification, however;

a. 25 percent of the total base investment must be expended before requesting the first certification of qualified expenditures;

b. 50 percent of the total base investment must be expended within two years of the date of initial certification;

c. In the case of multiple use facilities, no tax credits will be earned until the facility directly used in the theatrical or musical productions is complete.

4. Tax credits associated with a state-certified infrastructure project shall never exceed the total base investment and transportation expenditures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2177 (October 2009), repromulgated LR 36:2240 (October 2010).

§1699. Application of the Tax Credit

A. Prior to claiming a tax credit on any tax return, or transferring any tax credit, a person must apply for and obtain final certification.

B. After receiving final certification, a person may transfer the credit as follows.

1. Only one transfer is allowed.

2. The credit, and/or refund of an overpayment, may be transferred by sending a written notice of such transfer to the Department of Revenue.

C. An owner of tax credits may claim tax credits against its Louisiana income tax liability by submitting its final certification, or written notice of transfer pursuant to this rule, evidencing the dollar amount of tax credits being claimed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:6034(E).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Office of Entertainment Industry Development, LR 35:2177 (October 2009), repromulgated LR 36:2241 (October 2010).

Kristy McKearn
Undersecretary

1010#022

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 111—The Louisiana School, District, and State Accountability System*: §302. 9-12 Transition from 2010 to 2012, §603. Determining a Cohort for a Graduation Index, §611. Documenting a Graduation Index, §613. Calculating a Graduation Index, §708. Calculating a Graduation Rate, §4001. Proficient in English, and §4003. Making Progress in Learning English. Act 478 of the 1997 Regular Legislative Session called for the development of an accountability system for the purpose of implementing fundamental changes in classroom teaching by helping schools and communities focus on improved student achievement. The State’s Accountability System is an evolving system with different components that are required to change in response to state and federal laws and regulations.

Changes in Bulletin 111, Chapter 3, provide detail for transition of schools in grades 9-12.

Changes in Bulletin 111, Chapter 6, provide detail of how the cohort is determined for the Graduation Index and how it is calculated.

Changes in Bulletin 111, Chapter 7, provide detail of how the Graduation Rate is calculated.

Changes in Bulletin 111, Chapter 40, provide clarification for how students will be proficient in English.

Title 28

EDUCATION

Part LXXXIII. Bulletin 111—The Louisiana School, District, and State Accountability System
Chapter 3. School Performance Score Component
§302. 9-12 Transition from 2010 to 2012

A. At the 2011 accountability release for 9-12 and combination schools, growth shall be evaluated using a 2010 transition baseline SPS.

1. This baseline (9-12 and the 9-12 component of combination schools) shall be comprised of 70 percent assessment index calculated with GEE results from 2009 and 2010; and,

2. 30 percent graduation index from the 2008 and 2009 cohorts.

B. The 2011 growth SPS for 9-12 and the 9-12 component of combination schools shall be comprised of 70 percent assessment index calculated using 2011 GEE results and 30 percent graduation index from the 2010 cohort.

C. Schools with only ninth grade enrollment will not be evaluated for growth in 2011.

D. The 2011 baseline SPS for 9-12 and the 9-12 component of combination schools shall be comprised of 70

percent assessment index calculated using 2010 and 2011 GEE results and 30 percent graduation index from the 2009 and 2010 cohorts.

E. Districts may request a waiver from sanctions for a specific school/s if the school's 2011 baseline SPS is less than 65.0, if:

1. the district submits evidence to the LDE that the 2009 9th grade iLEAP results and the 2010 9th grade iLEAP results both produce adjusted assessment indices greater than 65.0; and

2. the 2010 and 2011 GEE results for the school each produce adjusted assessment indices that are less than 65.0 but greater than the adjusted assessment index calculated using the 2009 GEE results; and

3. the school's adjusted graduation index based on the 2010 graduating cohort is at least 65.0 and greater than the adjusted graduation index based on the 2008 graduating cohort.

F. In 2011, schools with only ninth grade enrollment shall receive baseline SPSs that include adjusted assessment indices comprised of End of Course assessment data from the academic year 2010-11 test administrations.

G. Beginning in 2012, schools with only ninth grade enrollment shall receive growth SPSs that include adjusted assessment indices comprised of End of Course assessment data from the prior academic year test administrations.

H. In 2012, schools with grades 9-12 (excluding those with ninth grade only) shall receive 2011 transition baseline SPSs that include adjusted assessment indices comprised of End of Course assessment data from the 2011 academic year test administrations.

I. Beginning in 2012, schools with grades 9-12 shall receive baseline SPSs that include adjusted assessment indices comprised of End of Course assessment data from the prior two year academic year test administrations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2241 (October 2010).

Chapter 6. Graduation Index

§603. Determining a Cohort for a Graduation Index

A. A cohort of students is all students who entered 9th grade for the first time in the state of Louisiana in a given academic year.

B. Each cohort of students will be tracked for four years, from entry as first-time ninth graders through four academic years.

C. Students who exit Louisiana's Student Information System (SIS) system in less than four years for legitimate reasons shall not be included in the cohort's graduation index calculations.

1. For graduation cohort calculations, exit codes 07, 10, 14, 16, and 20 from §611 are legitimate, along with any special codes created to deal with natural disasters .

D. Students that LEAs exit from a school or the LEA using anything other than legitimate leaver codes or those codes indicating completion of a high school course of study must subsequently appear in the Student Information System or they shall be considered dropouts from the state, LEA and school.

E. Students with no high school records in the Louisiana SIS who transfer from a home school, non-public school, or another state into a Louisiana school on or before October 1 of their-eleventh grade year will enter the "on-time" cohort at the students' assigned grade level. Students with existing Louisiana public high school records will re-enter their original cohort.

F. Students transferring within the public school system in Louisiana will remain in their same cohort.

1. Students transferring within an LEA on or before October 1 of their cohort's fourth year will be included in the calculation of the graduation index at the school into which they transfer and complete their fourth year of high school.

2. Students who exit their high school for more than 45 calendar days during their fourth year shall not be included in that high school's grad cohort calculation.

G. ...

H. Any student who exits K-12 education to enter a school or program that does not award a high school diploma shall be considered a dropout in graduation cohort calculations.

I. ...

J. Students who exit K-12 education and enroll in adult education shall earn points for their school and LEA only if a GED is awarded by October 1 of the following academic year. Otherwise, the student shall be considered a dropout.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 33:424 (March 2007), LR 33:2031 (October 2007), LR 35:2312 (November 2009), LR 36:2242 (October 2010)

§611. Documenting a Graduation Index

A. ...

Exit Code Documentation		
Code	Descriptions	Required Documentation
01	Expelled	Due process documentation supporting expulsion
03	Illness	Letter from a physician stating the student's date(s) of care written on the doctor office's letterhead with the doctor's original signature
04	Graduate with Diploma	Official transcript showing successful completion of requirements
05	GED only	LDE confirmation document
06	Certificate of Achievement (Special Education)	Official transcript showing successful completion of requirements
07	Death (of student) or permanent incapacitation	Death Certificate, obituary, or similar form. Signed statement by a physician indicating student's inability to return
08	Transferred to another public school within district	Request for records from the receiving school
09	Transferred to another public school within Louisiana	Request for records from the receiving school
10	Transferred out of state or country	Request for records from the receiving school (or similar form located in the student's cumulative records, signed and dated by the parent/guardian or adult student and an authorized representative of the school). Documentation proving a student was a foreign exchange student
12	Transferred to Correctional Institution	A signed statement from the sentencing judge, Office of Youth Development, or representative of the correctional facility.
14	Transferred to non-public school (must award high school diplomas)	Request for records from the receiving school
15	Exit from grade for reassignment to another grade	Test results, summer school grades or similar forms located in the student's cumulative records supporting the grade change
16	Transferred to home study/in-school Private Schooling	LDE Approval letter
17	Completed all Carnegie unit requirements but not the GEE	Official transcript showing successful completion of requirements
20	Transferred to Early College Admissions Program	School withdrawal form and request for records from the College or University and proof of full-time enrollment in an academic program
21	Transferred to State school	Request for records from the receiving school
22	Options Program Completer: GED & Industry Based Certificate	Official transcript showing successful completion of requirements
23	Options Program Completer: GED & Locally Designed Skills Certificate	Official transcript showing successful completion of requirements
24	Options Program Completer: Industry Based Certification	Official transcript showing successful completion of requirements
25	Options Program Completer: Local Skills Certificate Only	Official transcript showing successful completion of requirements
26	Options Program Completer: Certificate of Completion	Official transcript showing successful completion of requirements
27	Exit under SBESE Academic School Choice Policy	Request for records from the receiving school
28	Exit under SBESE Unsafe School Choice Policy	Request for records from the receiving school

B. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1024 (June 2006), amended LR 35:639 (April 2009), LR 35:2312 (November 2009), LR 36:2242 (October 2010).

§613. Calculating a Graduation Index

A. - D.1.c. ...

E. To insure the accuracy of data used to calculate the graduation index, the calculation shall lag one year behind the collection of the data (the index earned by the graduating class of 2006 will be used for 2007 accountability calculations).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1025 (June 2006), amended LR 33:2031 (October 2007), LR 33:2594 (December 2007), LR 35:1472 (August 2009), LR 36:2243 (October 2010).

Chapter 7. Subgroup Component §708. Calculating a Graduation Rate

A. - B. ...

C. The percentage of students in a cohort who graduate within four years with a standard diploma shall be the graduation rate used for the subgroup component.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1026 (June 2006), amended LR 33:424 (March 2007), LR 36:2243 (October 2010).

Chapter 40. Definitions Related to English Proficiency §4001. Proficient in English

A. To be considered English proficient and exit limited English proficient (LEP) status, a LEP student must score as follows.

1. For grades K-2:

a. two years at composite level V on the English language development assessment (ELDA); or, in the same year;

b. at composite level V on ELDA and at grade-level/benchmark/low-risk on a standardized reading assessment, such as DRA or DIBELS.

2. For grades 3-12:

a. composite level V on ELDA; or, in the same year;

b. at composite level 4 on ELDA and at proficient on the English language arts portion of the iLEAP, LEAP, GEE, English II End of Course, LAA 1, or LAA 2.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004), amended LR 33:254 (February 2007), LR 34:2552 (December 2008), LR 36:2243 (October 2010).

§4003. Making Progress in Learning English

A. Making progress in learning English will be demonstrated by a student who moves from the most recent Prior Year ELDA Composite Level to, in the current year, at least the next higher Progress Criterion as described below:

Prior Year ELDA Level	Progress Criterion
Beginning (Level I)	Lower Intermediate (Level II)
Lower Intermediate (Level II)	Upper Intermediate (Level III)
Upper Intermediate (Level III)	Advanced (Level IV)
Advanced (Level IV)	Full English Prof. (Level V) or English proficient (Sec.4001-Definition)
Full English Prof. (Level V)	English Proficient (Sec.4001-Definition)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:767 (April 2004), amended LR 36:2244 (October 2010).

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RULE

Board of Elementary and Secondary Education

Bulletin 125—Standards for Educational Leaders in Louisiana
(LAC 28:CXXXVII.Chapters 1-2)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has adopted *Bulletin 125—Standards for Educational Leaders in Louisiana*: LAC 28:CXXXVII.Chapters 1-2. The revised standards reflect the newly revised national standards for educational leaders. The expectations and indicators more clearly define the knowledge, skills, and dispositions educational leaders need to be effective and increase student achievement. The new standards were updated to align with the National Leadership Standards.

Title 28

EDUCATION

Part CXXXVI. Bulletin 125—Standards for Educational Leaders in Louisiana

Chapter 1. Purpose

§101. Introduction

A. A critical component to ensuring that the goals of the state's School and District Accountability System are achieved is the placement of effective administrators at every school. In order for this to be attained, attention must be focused on building leadership capacity at both the school and district levels. Utilizing the standards for educational leaders, educational leaders are strongly encouraged to examine organizational structures, their enacted roles, and day-to-day operations to ensure they are leading the way for school success by keeping the focus on enhanced student achievement.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1335 (July 2007), amended LR 36:2244 (October 2010).

Chapter 2. Standards

§201. Performance Expectations and Indicators for Educational Leaders

A. In 2008, the Council of Chief State School Officers (CCSSO) State Consortium on Educational Leadership revised the Interstate School Leaders Licensure Consortium (ISLLC) standards for educational leaders and renamed them *Performance Expectations and Indicators for Educational Leaders*. The *Performance Expectations and Indicators for Educational Leaders* represent consensus among state education agency policy leaders about the most important actions required of K-12 education leaders to improve teaching and learning. The main purpose of the *Performance Expectations and Indicators for Educational Leaders* is to provide a resource for policymakers and educators in states, districts, and programs to analyze and prioritize expectations of education leaders in various roles and strategic stages in their careers. *Performance Expectations and Indicators for Educational Leaders* is also intended to support national, state, and local dialogue about how to improve leadership.

B. The state has adopted the *Performance Expectations and Indicators for Educational Leaders* as the Louisiana state standards for educational leaders.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2244 (October 2010).

§203. Performance Expectation 1

A. Vision, Mission, and Goals

1. Education leaders ensure the achievement of all students by guiding the development and implementation of a shared vision of learning, strong organizational mission, and high expectations for every student.

a. Dispositions Exemplified in Expectation 1. Education leaders believe in, value, and are committed to:

- i. every student learning;
- ii. collaboration with all stakeholders;
- iii. high expectations for all;

- iv. examining assumptions and beliefs;
- v. continuous improvement using evidence.

B. Narrative

1. Education leaders are accountable and have unique responsibilities for developing and implementing a vision of learning to guide organizational decisions and actions. Education leaders guide a process for developing and revising a shared vision, strong mission, and goals that are high and achievable for every student when provided with appropriate, effective learning opportunities.

2. The vision, mission, and goals represent what the community intends for students to achieve, informed by the broader social and policy environment and including policy requirements about specific outcomes and continuous improvement. The vision, mission, and goals become the touchstone for decisions, strategic planning, and change processes. They are regularly reviewed and adjusted, using varied sources of information and ongoing data analysis.

3. Leaders engage the community to reach consensus about vision, mission, and goals. To be effective, processes of establishing vision, mission, and goals should incorporate diverse perspectives in the broader school community and create consensus to which all can commit. While leaders engage others in developing and implementing the vision, mission, and goals, it is undeniably their responsibility to advocate for and act to increase equity and social justice.

C. Element A—High Expectations for All. The vision and goals establish high, measurable expectations for all students and educators.

1. Indicators. A leader:

a. uses varied sources of information and analyzes data about current practices and outcomes to shape a vision, mission, and goals with high, measurable expectations for all students and educators;

b. aligns the vision, mission, and goals to school, district, state, and federal policies (such as content standards and achievement targets);

c. incorporates diverse perspectives and crafts consensus about vision, mission, and goals that are high and achievable for every student when provided with appropriate, effective learning opportunities;

d. advocates for a specific vision of learning in which every student has equitable, appropriate, and effective learning opportunities and achieves at high levels.

D. Element B—Shared Commitments to Implement the Vision, Mission, and Goals. The process of creating and sustaining the vision, mission, and goals is inclusive, building common understandings and genuine commitment among all stakeholders.

1. Indicators. A leader:

a. establishes, conducts, and evaluates processes used to engage staff and community in a shared vision, mission, and goals;

b. engages diverse stakeholders, including those with conflicting perspectives, in ways that build shared understanding and commitment to vision, mission, and goals;

c. develops shared commitments and responsibilities that are distributed among staff and the community for making decisions and evaluating actions and outcomes;

d. communicates and acts from shared vision, mission, and goals so educators and the community understand, support, and act on them consistently;

e. advocates for and acts on commitments in the vision, mission, and goals to provide equitable, appropriate, and effective learning opportunities for every student.

E. Element C—Continuous Improvement toward the Vision, Mission, and Goals. Education leaders ensure the achievement of all students by guiding the development and implementation of a shared vision of learning, strong organizational mission, and high expectations for every student.

1. Indicators. A leader:

a. uses or develops data systems and other sources of information (e.g., test scores, teacher reports, student work samples) to identify unique strengths and needs of students, gaps between current outcomes and goals, and areas for improvement;

b. makes decisions informed by data, research, and best practices to shape plans, programs, and activities and regularly review their effects;

c. uses data to determine effective change strategies, engaging staff and community stakeholders in planning and carrying out changes in programs and activities;

d. identifies and removes barriers to achieving the vision, mission, and goals;

e. incorporates the vision and goals into planning (e.g., strategic plan, school improvement plan), change strategies, and instructional programs;

f. obtains and aligns resources (such as learning technologies, staff, time, funding, materials, training, and so on) to achieve the vision, mission, and goals;

g. revises plans, programs, and activities based on systematic evidence and reviews of progress toward the vision, mission, and goals.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2244 (October 2010).

§205. Performance Expectation 2

A. Teaching and Learning

1. Education Leaders ensure achievement and success of all students by monitoring and continuously improving teaching and learning.

a. Dispositions Exemplified in Expectation 2. Education leaders believe in, value, and are committed to:

i. learning as the fundamental purpose of school;

ii. diversity as an asset;

iii. continuous professional growth and development;

iv. lifelong learning;

v. collaboration with all stakeholders;

vi. high expectations for all;

vii. student learning.

B. Narrative

1. A strong, positive, professional culture fosters learning by all educators and students. In a strong professional culture, leaders share and distribute responsibilities to provide quality, effectiveness, and coherence across all components of the instructional system

(such as curriculum, instructional materials, pedagogy, and student assessment). Leaders are responsible for a professional culture in which learning opportunities are targeted to the vision and goals and differentiated appropriately to meet the needs of every student. Leaders need knowledge, skills, and beliefs that provide equitable differentiation of instruction and curriculum materials to be effective with a range of student characteristics, needs, and achievement.

2. A strong professional culture includes reflection, timely and specific feedback that improves practice, and support for continuous improvement toward vision and goals for student learning. Educators plan their own professional learning strategically, building their own capacities on the job. Leaders engage in continuous inquiry about effectiveness of curricula and instructional practices and work collaboratively to make appropriate changes that improve results.

C. Element A—Strong Professional Culture. A strong professional culture supports teacher learning and shared commitments to the vision and goals.

1. Indicators. A leader:

a. develops shared understanding, capacities, and commitment to high expectations for all students and closing achievement gaps;

b. guides and supports job-embedded, standards-based professional development that improves teaching and learning and meets diverse learning needs of every student;

c. models openness to change and collaboration that improves practices and student outcomes;

d. develops time and resources to build a professional culture of openness and collaboration, engaging teachers in sharing information, analyzing outcomes, and planning improvement;

e. provides support, time, and resources for leaders and staff to examine their own beliefs, values, and practices in relation to the vision and goals for teaching and learning;

f. provides ongoing feedback using data, assessments, and evaluation methods that improve practice;

g. guides and monitors individual professional development plans and progress for continuous improvement of teaching and learning.

D. Element B—Rigorous Curriculum and Instruction. Improving achievement of all student requires all educators to know and use rigorous curriculum and effective instructional practices, individualized for success of every student.

1. Indicators. A leader:

a. develops shared understanding of rigorous curriculum and standards-based instructional programs, working with teams to analyze student work, monitor student progress, and redesign curricular and instructional programs to meet diverse needs;

b. provides coherent, effective guidance of rigorous curriculum and instruction, aligning content standards, curriculum, teaching, assessments, professional development, assessments, and evaluation methods;

c. provides and monitors effects of differentiated teaching strategies, curricular materials, educational technologies, and other resources appropriate to address diverse student populations, including students with disabilities, cultural and linguistic differences, gifted and

talented, disadvantaged social economic backgrounds, or other factors affecting learning;

d. identifies and uses high-quality research and data-based strategies and practices that are appropriate in the local context to increase learning for every student.

E. Element C—Assessment and Accountability. Improving achievement and closing achievement gaps require that leaders make appropriate, sound use of assessments, performance management, and accountability strategies to achieve vision, mission, and goals.

1. Indicators. A leader:

a. develops and appropriately uses aligned, standards-based accountability data to improve the quality of teaching and learning;

b. uses varied sources and kinds of information and assessments (such as test scores, work samples, and teacher judgment) to evaluate student learning, effective teaching, and program quality;

c. guides regular analyses and disaggregation of data about all students to improve instructional programs;

d. uses effective data-based technologies and performance management systems to monitor and analyze assessment results for accountability reporting and to guide continuous improvement;

e. interprets data and communicates progress toward vision, mission, and goals for educators, the school community, and other stakeholders.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2245 (October 2010).

§207. Performance Expectation 3

A. Managing Organizational Systems and Safety

1. Education leaders ensure the success of all students by managing organizational systems and resources for a safe, high-performing learning environment.

a. Dispositions Exemplified in Expectation 3. The education leader believes in, values, and is committed to:

i. a safe and supportive learning environment;

ii. collaboration with all stakeholders;

iii. equitable distribution of resources;

iv. operating efficiently and effectively;

v. management in service of staff and student learning.

B. Narrative

1. Traditionally, school leaders focused on the management of a school or school district. A well-run school where buses run on time, the facility is clean, and the halls are orderly and quiet used to be the mark of an effective school leader. With the shift to leadership for learning, maintaining an orderly environment is necessary but not sufficient to meet the expectations and accountability requirements facing educators today.

2. Education leaders need a systems approach in complex organizations of schools and districts. In order to ensure the success of all students and provide a high-performing learning environment, education leaders manage daily operations and environments through efficiently and effectively aligning resources with vision and goals. Valuable resources include financial, human, time, materials, technology, physical plant, and other system components.

3. Leaders identify and allocate resources equitably to address the unique academic, physical, and mental health

needs of all students. Leaders address any conditions that might impede student and staff learning, and they implement laws and policies that protect safety of students and staff. They promote and maintain a trustworthy, professional work environment by fulfilling their legal responsibilities, enacting appropriate policies, supporting due process, and protecting civil and human rights of all.

C. Element A—Effective Operational Systems. Leaders distribute leadership responsibilities and supervise daily, ongoing management structures and practices to enhance teaching and learning.

1. Indicators. A leader:

a. uses effective tools such as problem-solving skills and knowledge of strategic, long-range, and operational planning to continuously improve the operational system;

b. maintains the physical plant for safety, ADA requirements, and other access issues to support learning of every student;

c. develops and facilitates communication and data systems that assure the timely flow of information;

d. oversees acquisition and maintenance of equipment and effective technologies, particularly to support teaching and learning;

e. distributes and oversees responsibilities for leadership of operational systems;

f. evaluates and revises processes to continuously improve the operational system.

D. Element B—Aligned Fiscal and Human Resources. Leaders establish an infrastructure for finance and personnel that operates in support of teaching and learning.

1. Indicators. A leader:

a. operates within budget and fiscal guidelines and directs them effectively toward teaching and learning;

b. allocates funds based on student needs within the framework of federal and state rules;

c. aligns resources (such as time, people, space, and money) to achieve the vision and goals;

d. implements practices to recruit and retain highly qualified personnel;

e. assigns personnel to address diverse student needs, legal requirements, and equity goals;

f. conducts personnel evaluation processes that enhance professional practice, in keeping with district and state policies;

g. seeks and secures additional resources needed to accomplish the vision and goals.

E. Element C—Protecting the Welfare and Safety of Students and Staff. Leaders ensure a safe environment by addressing real and potential challenges to the physical and emotional safety and security of students and staff that interfere with teaching and learning.

1. Indicators. A leader:

a. advocates for and creates collaborative systems and distributed leadership responsibilities that support student and staff learning and well-being;

b. involves parents, teachers, and students in developing, implementing, and monitoring guidelines and norms for accountable behavior;

c. develops and monitors a comprehensive safety and security plan.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2246 (October 2010).

§209. Performance Expectation 4

A. Collaborating with Families and Stakeholders

1. Education leaders ensure the success of all students by collaborating with families and stakeholders who represent diverse community interests and needs and mobilizing community resources that improve teaching and learning.

a. Dispositions exemplified in Expectation 4. The education leader believes in, values, and is committed to:

i. high standards for all;

ii. including family and community as partners;

iii. respect for the diversity of family composition;

iv. continuous learning and improvement for all.

B. Narrative

1. In order to educate students effectively for participation in a diverse, democratic society, leaders incorporate participation and views of families and stakeholders for important decisions and activities of schools and districts. Key stakeholders include educators, students, community members, and organizations that serve families and children.

2. Leaders recognize that diversity enriches and strengthens the education system and a participatory democracy. Leaders regard diverse communities as a resource and work to engage all members in collaboration and partnerships that support teaching and learning. Leaders help teachers communicate positively with families and make sure families understand how to support their children's learning. In communicating with parents and the community, leaders invite feedback and questions so that communities can be partners in providing the best education for every student.

C. Element A—Collaboration with Families and Community Members. Leaders extend educational relationships to families and community members to add programs, services, and staff outreach and provide what every student needs to succeed in school and life.

1. Indicators. A leader:

a. brings together the resources of schools, family members, and community to positively affect student and adult learning, including parents and others who provide care for children;

b. involves families in decision making about their children's education;

c. uses effective public information strategies to communicate with families and community members (such as email, night meetings, and written materials in multiple languages);

d. applies communication and collaboration strategies to develop family and local community partnerships;

e. develops comprehensive strategies for positive community and media relations.

D. Element B—Community Interests and Needs. Leaders respond and contribute to community interests and needs in providing the best possible education for their children.

1. Indicators. A leader:

a. identifies key stakeholders and is actively involved within the community, including working with community members and groups that have competing or conflicting perspectives about education;

b. uses appropriate assessment strategies and research methods to understand and accommodate diverse student and community conditions and dynamics;

c. seeks out and collaborates with community programs serving students with special needs;

d. capitalizes on diversity (such as cultural, ethnic, racial, economic, and special interest groups) as an asset of the school community to strengthen educational programs;

e. demonstrates cultural competence in sharing responsibilities with communities to improve teaching and learning.

E. Element C—Building on Community Resources. Leaders maximize shared resources among schools, districts, and communities that provide key social structures and gathering places, in conjunction with other organizations and agencies that provide critical resources for children and families.

1. Indicators. A leader:

a. links to and collaborates with community agencies for health, social, and other services to families and children;

b. develops mutually beneficial relationships with business, religious, political, and service organizations to share school and community resources (such as buildings, playing fields, parks, medical clinics, and so on);

c. uses public resources and funds appropriately and effectively;

d. secures community support to sustain existing resources and add new resources that address emerging student needs.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2247 (October 2010).

§211. Performance Expectation 5

A. Ethics and Integrity

1. Education leaders ensure the success of all students by being ethical and acting with integrity.

a. Dispositions Exemplified in Expectation 5. The education leader believes in, values, and is committed to:

i. the common good over personal interests;

ii. taking responsibility for actions;

iii. ethical principles in all relationships and decisions;

iv. modeling high expectations;

v. continuously improving knowledge and skills.

B. Narrative

1. Local and state education agencies and professional organizations hold educators to codes of ethics, with attention to personal conduct, fiscal responsibilities, and other types of ethical requirements. The Performance Expectations build on concepts of professional ethics and integrity and add an emphasis on responsibilities of leaders for educational equity and social justice in a democratic society. Education is the primary socializing institution, conferring unique benefits or deficits across diverse constituents.

2. Leaders recognize that there are existing inequities in current distribution of high-quality educational resources

among students. Leaders remove barriers to high-quality education that derive from economic, social, cultural, linguistic, physical, gender, or other sources of discrimination and disadvantage. They hold high expectations of every student and assure that all students have what they need to learn what is expected. Further, leaders are responsible for distributing the unique benefits of education more equitably, expanding future opportunities of less-advantaged students and families and increasing social justice across a highly diverse population.

3. Current policy environments with high-stakes accountability in education require that leaders are responsible for positive and negative consequences of their interpretations and implementation of policies as they affect students, educators, communities, and their own positions. Politically skilled, well-informed leaders understand and negotiate complex policies (such as high-stakes accountability), avoiding potential harm to students, educators, or communities that result from ineffective or insufficient approaches.

4. Ethics and integrity mean leading from a position of caring, modeling care and belonging in educational settings, personally in their behavior and professionally in concern about students, their learning, and their lives. Leaders demonstrate and sustain a culture of trust, openness, and reflection about values and beliefs in education. They model openness about how to improve learning of every student. They engage others to share decisions and monitor consequences of decisions and actions on students, educators, and communities.

C. Element A—Ethical and Legal Standards. Leaders demonstrate appropriate ethical and legal behavior expected by the profession.

1. Indicators. A leader:

a. models personal and professional ethics, integrity, justice, and fairness and expects the same of others;

b. protects the rights and appropriate confidentiality of students and staff;

c. behaves in a trustworthy manner, using professional influence and authority to enhance education and the common good.

D. Element B—Examining Personal Values and Beliefs. Leaders demonstrate their commitment to examine personal assumptions, values, beliefs, and practices in service of a shared vision and goals for student learning.

1. Indicators. A leader:

a. demonstrates respect for the inherent dignity and worth of each individual;

b. models respect for diverse community stakeholders and treats them equitably;

c. demonstrates respect for diversity by developing cultural competency skills and equitable practices;

d. assesses own personal assumptions, values, beliefs, and practices that guide improvement of student learning;

e. uses a variety of strategies to lead others in safely examining deeply held assumptions and beliefs that may conflict with vision and goals;

f. respectfully challenges and works to change assumptions and beliefs that negatively affect students, educational environments, and every student learning.

E. Element C—Maintaining High Standards for Self and Others. Leaders perform the work required for high levels of personal and organizational performance, including acquiring new capacities needed to fulfill responsibilities, particularly for high-stakes accountability.

1. Indicators. A leader:

- a. reflects on own work, analyzes strengths and weaknesses, and establishes goals for professional growth;
- b. models lifelong learning by continually deepening understanding and practice related to content, standards, assessment, data, teacher support, evaluation, and professional development strategies;
- c. develops and uses understanding of educational policies such as accountability to avoid expedient, inequitable, or unproven approaches that meet short-term goals (such as raising test scores);
- d. helps educators and the community understand and focus on vision and goals for students within political conflicts over educational purposes and methods;
- e. sustains personal motivation, optimism, commitment, energy, and health by balancing professional and personal responsibilities and encouraging similar actions for others.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2248 (October 2010).

§213. Performance Expectation 6: The Education System

A. Education leaders ensure the success of all students by influencing interrelated systems of political, social, economic, legal, and cultural contexts affecting education to advocate for their teachers' and students' needs.

1. Dispositions Exemplified in Expectation 6. The education leader believes in, values, and is committed to:

- a. advocate for children and education;
- b. influence policies;
- c. uphold and improve laws and regulations;
- d. eliminate barriers to achievement;
- e. build on diverse social and cultural assets.

B. Narrative

1. Leaders understand that public schools belong to the public and contribute to the public good. They see schools and districts as part of larger local, state, and federal systems that support success of every student, while increasing equity and social justice. Leaders see education as an open system in which policies, goals, resources, and ownership cross traditional ideas about organizational boundaries of schools or districts. Education leaders advocate for education and students in professional, social, political, economic, and other arenas. They recognize how principles and structures of governance affect federal, state, and local policies and work to influence and interpret changing norms and policies to benefit all students.

2. Professional relationships with a range of stakeholders and policymakers enable leaders to identify, respond to, and influence issues, public awareness, and policies. For example, local elections affect education boards and bond results, in turn affecting approaches and resources for student success. Educators who participate in the broader system strive to provide information and engage constituents

with data to sustain progress and address needs. Education leaders in a variety of roles contribute special skills and insights to the legal, economic, political, and social well-being of educational organizations and environments.

C. Element A—Exerting Professional Influence. Leaders improve the broader political, social, economic, legal, and cultural context of education for all students and families through active participation and exerting professional influence in the local community and the larger educational policy environment.

1. Indicators. A leader:

- a. facilitates constructive discussions with the public about federal, state, and local laws, policies, regulations, and statutory requirements affecting continuous improvement of educational programs and outcomes;
- b. actively develops relationships with a range of stakeholders and policymakers to identify, respond to, and influence issues, trends, and potential changes that affect the context and conduct of education;
- c. advocates for equity and adequacy in providing for students' and families' educational, physical, emotional, social, cultural, legal, and economic needs, so every student can meet educational expectations and policy goals.

D. Element B—Contributing to the Educational Policy Environment. Leaders contribute to policies and political support for excellence and equity in education.

1. Indicators. A leader:

- a. operates consistently to uphold and influence federal, state, and local laws, policies, regulations, and statutory requirements in support of every student learning;
- b. collects and accurately communicates data about educational performance in a clear and timely way, relating specifics about the local context to improve policies and inform progressive political debates;
- c. communicates effectively with key decision makers in the community and in broader political contexts to improve public understanding of federal, state, and local laws, policies, regulations, and statutory requirements;
- d. advocates for increased support of excellence and equity in education.

E. Element C—Policy Engagement. Working with policymakers informs and improves education policymaking and effectiveness of the public's efforts to improve education.

1. Indicators. A leader:

- a. builds strong relationships with the school board, district and state education leaders, and policy actors to inform and influence policies and policymakers in the service of children and families;
- b. supports public policies that provide for present and future needs of children and families and improve equity and excellence in education;
- c. advocates for public policies that ensure appropriate and equitable human and fiscal resources and improve student learning;
- d. works with community leaders to collect and analyze data on economic, social, and other emerging issues that impact district and school planning, programs, and structures.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2249 (October 2010).

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RULE

Board of Elementary and Secondary Education

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel
(LAC 28:CXLVII.Chapters 1, 3, 7, and 9)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopts *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*. The Rule replaces policies found in Bulletin 1943—*Policies and Procedures for Teacher Assistance and Assessment* and in Bulletin 1525—*Guidelines for Local Personnel Evaluation*. Both bulletins contained rules for implementing evaluation programs of certificated school personnel (i.e., principals, new and experienced teachers, etc.). Previously implemented rules contained in the two bulletins have been streamlined into a single document. Modifications to currently implemented rules include:

- eliminating the new teacher portfolio as a data collection tool when assessing teachers;
- using formal interviews as a data collection tool when assessing teachers;
- revising the assessment criteria used when assessing or evaluating teachers (i.e. Louisiana Components of Effective Teaching, Domain V. School Improvement);
- substituting the Performance Expectations and Indicators for Education Leaders for the Standards for School Principals as the recognized assessment criteria for principals;
- reduction of the program timeline for assessing new teachers (i.e., from a two-year process to a one-year);
- allowing districts the authority to establish program timelines and instrumentation to be used when assessing new teachers;
- removal of redundancy and dated language.

Title 28

EDUCATION

Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

Chapter 1. Overview

§101. Regulations of the Program

A. As required by R.S. 17:391.5, R.S. 17:24.3 (Act 621 and Act 9) of the 1977 Louisiana Legislature, and R.S. 17:391.10 (Act 605) of 1980, all local educational agencies (LEAs) in Louisiana developed accountability plans to fulfill the requirements as set forth by the laws. Specifically, Act 621 of 1977 established school accountability programs for all certified and other professional personnel. Act 9 of 1977 established a statewide system of evaluation for teachers and principals. Act 605 of 1980 gave the Louisiana Department of Education (LDE) the authority to monitor the LEA's

personnel evaluation programs. In passing these acts, it was the intent of the legislature to establish within each LEA a uniform system for the evaluation of certified and other professional personnel.

B. Act 506, R.S. 17:391.5, as enacted and amended during the 1992 Regular Session of the Louisiana Legislature, revised and reenacted previous LEA accountability legislation. It included provisions to strengthen and make more uniform the local teacher evaluation practices within the public schools of Louisiana.

C. The guidelines to strengthen local teacher evaluation programs including the Louisiana Components of Effective Teaching and were entitled "Toward Strengthening and Standardizing Local School Districts' Teacher Evaluation Programs" and were approved by the BESE in September 1992. These guidelines along with the requirements of the local accountability legislation, form the basis for the local evaluation programs.

D. The BESE also authorized the convening of the Louisiana Components of Effective Teaching (LCET) Panel in spring of 1992. The charge of Panel I was to determine and to define the components of effective teaching for Louisiana's teachers. Reviewed and revised in the late 1990s and 2002, the components reflect what actually takes place in the classroom of an effective teacher. The original 35 member panel was composed of a majority of teachers. The resulting *Louisiana Components of Effective Teaching* (§901), which is a descriptive framework of effective teacher behavior, is intended to be a uniform element that serves as evaluation and assessment criteria in the local teacher evaluation programs.

E. In August 2008, the BESE approved the Performance Expectations and Indicators for Education Leaders to replace the Standards for School Principals in Louisiana, 1998 as criteria for principal evaluation. (Appendix B)

F. In 1994, Act I of the Third Extraordinary Session of the 1994 Louisiana Legislature was passed. Act I amended and reenacted several statues related to Local Personnel Evaluation. In April 2000, Act 38 of the Extraordinary Session of the 2000 Louisiana Legislature was passed. Act 38 amended, enacted, and repealed portions of the legislation regarding the local personnel evaluation process. While local school districts are expected to maintain the elements of the local personnel evaluation programs currently in place and set forth in this document, Act 38 eliminated the LDE's required monitoring of the local implementation. Monitoring of local personnel evaluation programs is to occur as requested by the BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2250 (October 2010).

§105. Purposes of Personnel Evaluation

A. The purposes for which personnel evaluation will be used in Louisiana are as follows:

1. to assure the public that the educational system provides the best opportunities for all children to learn;
2. to assure the public that the most qualified personnel are employed in every position and that effective teaching continues in the classroom;

3. to foster the continuous improvement of teaching and learning by providing opportunities for the professional growth of all educators;

4. to provide support for the assistance/assessment of new teachers;

5. to provide procedures that are necessary to fulfill the objectives of retaining competent professional employees, to embrace sound educational principles, and to ensure the strengthening of the formal learning environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2250 (October 2010).

§109. Framework for LEA Personnel Evaluation Programs

A. Each local school board has the responsibility of providing a program for the evaluation of certified and other professional personnel employed within the system. Programs should be appropriate and tailored to the particular needs of the school district. Each school board shall have the responsibility to institute programs that address the particular needs of the school district it represents and the regulations developed by the LDE pursuant to the laws.

B. Certain requirements relative to the design and development of local personnel evaluation programs have been set forth in an effort to facilitate the construction and implementation process. Organizing and numbering the personnel evaluation program plan in a manner consistent with the proposed format will be helpful to the LEA in determining that all elements of evaluation and assessment have been included. A numerical outline will also assist all parties in the review of the plan should such a review be requested or mandated by the BESE. The remainder of this document presents information relative to the criteria for each of the following Sections or elements that should be included in the LEA personnel evaluation program plan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010).

Chapter 3. Template for Personnel Evaluation Plans §329. Intensive Assistance Programs

A. This program must be designed for use by all evaluators when it becomes necessary to prepare an Intensive Assistance Program for an evaluatee who has been determined to be in need of certain assistance.

B. If it is determined through the evaluation process that an evaluatee does not satisfactorily meet the local school district's standards of performance, then that evaluatee is placed in an intensive assistance program. When the evaluatee is placed in such a program, he/she is informed in writing of the reason(s) for the placement. Then an intensive assistance plan is developed with the evaluatee. This plan specifies:

1. what the evaluatee must do to strengthen his/her performance, what objective(s) must be accomplished, and what level(s) of performance is/are expected;

2. what assistance/support shall be provided by the school district;

3. a timeline (not to exceed two years) for achieving the objectives and the procedures for monitoring the

evaluatee's progress including observations and conferences; and

4. the action that will be taken if improvement is not demonstrated. Evaluatees must continue to be evaluated until the need for intensive assistance no longer exists.

C. LEAs must delineate the procedures to be followed if the evaluatee fails to improve within the timelines of the intensive assistance program. R.S. 17:3902 mandates that, if an evaluatee completes the intensive assistance program and still performs unsatisfactorily on a formal evaluation, the local board shall initiate termination proceedings within six months following such unsatisfactory performance.

D. In this section of the LEA evaluation program description, the LEA delineates its process for intensive assistance. The LEA intensive assistance process must conform to the following regulations.

1. An intensive assistance program shall be provided for evaluatees who do not meet the local school district's standards of satisfactory performance.

2. Any evaluatee placed in an intensive assistance program shall be informed in writing of the reason(s) for this placement.

3. An intensive assistance plan shall be developed for any evaluatee placed in such a program.

4. The local school district shall document the professional development support that is necessary to enable the certified and other professional personnel to meet the objectives of his/her plan.

5. The local school district shall take appropriate action in accordance with legislative, SBESE, and local school board mandates if satisfactory improvement is not demonstrated.

6. The intensive assistance plan must be developed collaboratively by the evaluator and the evaluatee and must contain specific information:

a. what the evaluatee needs to do to strengthen his/her performance including a statement of the objective(s) to be accomplished and the expected level(s) of performance;

b. an explanation of the assistance/support/resource to be provided by the school district;

c. the evaluatee's and evaluator(s)' names and position titles;

d. a space for indicating the date that the assistance program shall begin;

e. the date when the assistance program shall be completed;

f. the evaluator's and evaluatee's signatures and date lines (Signatures and dates must be affixed at the time the assistance is prescribed and again after follow-up comments are completed.);

g. the timeline for achieving the objective and procedures for monitoring the evaluatee's progress (not to exceed two years);

h. an explanation of the provisions for multiple opportunities for the evaluatee to improve (The intensive assistance programs must be designed in such a manner as to provide the evaluatees with more than one opportunity to improve.);

i. the action that will be taken if improvement is not demonstrated.

7. The intensive assistance form must be designed in a manner that would provide for the designation of the level of assistance and a description of performance.

8. Completed intensive assistance plans and all supporting documents, such as observations, correspondence, and any other information pertinent to the intensive assistance process, must be filed in the evaluatee's single official file at the central office.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010).

§333. Procedures for Resolving Conflict—Due Process

A. The LEA must address the following components of due process.

1. The evaluator shall provide the evaluatee with a copy of the evaluation and/or assessment results within 15 working days after the completion of the evaluation. (The LDE strongly recommends that this same procedure be employed with regard to observation reports.)

2. A post-evaluation conference must be held following the evaluation and/or assessment, and prior to the end of the semester or school year in order that the results can be discussed. (This discussion should concern the strengths and weaknesses of the evaluatee.)

3. The evaluation and the assistance and assessment programs shall include procedures for resolving conflict in a fair, efficient, effective, and professional manner.

4. The evaluatee may file his/her own written response to the evaluation or results of the assessment. (A self-evaluation form may not serve as an evaluatee's written response.)

5. The evaluatee may file a written response to the evaluation or results of the assessment that will become a permanent attachment to the evaluatee's single official personnel file. The response may be a signed statement clarifying or rebutting the issue in question. (The LDE recommends that a timeline for the written response be given.)

6. When evaluatees are not performing satisfactorily, they must be informed in writing.

7. The evaluatee has the right to receive proof, by documentation, of any item contained in the evaluation or the assessment that the evaluatee believes to be inaccurate, invalid, or misrepresented. If documentation does not exist, the item in question must be amended or removed from the evaluation or the assessment.

8. The evaluatee must be provided with ample assistance to improve performance.

9. The evaluatee may request that an evaluation be conducted by another source, or that a member of an assessment team be replaced. (The LDE recommends that the LEA name the source from which another evaluator or assessor may be selected.)

10. The confidentiality of evaluation and assessment results must be maintained as prescribed by law. (The LDE strongly recommends that copies of all evaluation and assessment documents be maintained in the files of both the evaluator and evaluatee; however, these documents must be maintained in the evaluatee's single official file.) The school board in each school district must take official action in regard to naming the individuals who shall be authorized to

enter the official personnel files. The positions of these individuals must be included.

11. Personnel evaluation grievance procedures must be established to follow the proper lines of authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2252 (October 2010).

§335. Staff Development for Personnel Involved in Evaluation

A. In this Section of the LEA Personnel Evaluation program description, the LEA delineates its plan for staff development. The school district provides training on a continuing basis for all staff involved in the evaluation and assessment process (i.e., district level administrators and supervisors, principals and assistant principals, and classroom teachers). It is recommended that all training concentrate on fostering the elements listed below:

1. a positive, constructive attitude toward teacher evaluation and assessment;

2. a knowledge of state laws and LEA policies governing the evaluation and teacher assistance and assessment processes and associated due process procedures;

3. an understanding of the Louisiana components of effective teaching;

4. an understanding of the Performance Expectations and Indicators for Education Leaders ; and

5. an understanding of the LEA's personnel evaluation and teacher assistance and assessment programs, including the philosophy and purposes, criteria, and procedures.

B. The LEA's plan may include a description of additional training for evaluators and assessors. Training should focus on developing the skills needed to diagnose, strengthen, and/or enhance teaching effectively. It is recommended that the following skill areas be included in the plan and description of the training:

1. data collection skills necessary to document a teacher's performance accurately;

2. data analysis skills necessary to make accurate judgments about a teacher's performance;

3. conferencing skills necessary to provide clear, constructive feedback regarding a teacher's performance;

4. skills in developing and facilitating meaningful professional growth plans that strengthen or enhance teaching effectiveness; and

5. skills in writing effective evaluation and assessment reports that document how evaluation and assessment has impacted the quality of the teaching-learning process in the classroom.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2252 (October 2010).

§339. Job Descriptions

A. The LEA Personnel Evaluation Plan must contain a copy of the job descriptions currently in use in the LEA. The local board shall establish a job description for every category of teacher and administrator pursuant to its evaluation plan. Copies of job descriptions must be distributed to all certified and professional personnel prior to employment. The chart that follows identifies a minimum

listing of the categories and titles of personnel for which job descriptions must be developed.

Personnel Category	Position or Title
Administration	1. Superintendent
	2. Assistant Superintendent
	3. Director
	4. Supervisor
	5. Coordinator
	6. Principal
	7. Assistant Principal
	8. Any employee whose position does not require certification but does require a minimal education attainment of a bachelor's degree from an accredited institution of higher learning
	9. Any employee whose position requires certification, but whose title is not given in this list
	10. Any employee who holds a major management position, but who is not required to have a college degree or certification
Instructional Personnel	1. Teachers of Regular and Sp. Ed. students
	2. Special Projects Teachers
Support Services	1. Guidance Counselors
	2. Librarians
	3. Therapists
	4. Any employee whose position does not require certification but does require a minimal educational attainment of a bachelor's degree from an accredited institution of higher learning
	5. Any employee whose position requires certification, but whose title is not given in this list
	6. Any employee who holds a major management position, but who is not required to have a college degree or certification

B. The local board has the responsibility of developing job descriptions for the various positions in accordance with its evaluation program. The following components must be included in each job description developed:

1. position title;
 2. position qualifications must be at least the minimum requirements as stated in LDE *Bulletin 746—Louisiana Standards for State Certification of School Personnel* (The qualifications must be established for the position, rather than for the evaluatee.);
 3. title of the person to whom the evaluatee reports;
 4. title of the person whom the evaluator supervises;
 5. performance responsibilities of the evaluatee (refer to * below);
 6. a space for the evaluatee's signature and date; and
- NOTE: Job descriptions must be reviewed annually. Current signatures must be on file at the central office in the single official file to document the annual review and/or receipt of job descriptions.
7. all certified and other personnel shall be provided with their job descriptions prior to the beginning of their employment in the school system in their position and each time their job description is revised.

*Job descriptions for instructional personnel must include the *Louisiana Components of Effective Teaching*; job descriptions for building-level administrators must include the *Performance Expectations and Indicators for Education Leaders* as part of the performance responsibilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2252 (October 2010).

§345. Statement of Assurance

A. This Section of the plan includes a statement signed by the superintendent of schools and by the president of the school board assuring that the LEA personnel evaluation program has been revised and approved by the school board that governs the affairs of the LEA. The statement of assurance includes a statement that the LEA personnel evaluation and teacher assistance and assessment programs shall be implemented as written. The original Statement of Assurance must be signed and dated by the LEA Superintendent of Schools and by the President of the LEA's School Board; the LDE requests that the LEA submit the statement of assurance prior to the opening of each school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2253 (October 2010).

Chapter 7. Reporting and Monitoring

§701. Annual Summary Reporting Format

A. Each LEA will submit an annual personnel evaluation report to the Department of Education. Information included in the reporting format reflects data deemed necessary in presenting annual reports to the Department of Education, as well as to the LEAs. The reporting of such information includes a variety of responses directed toward the collection of data useful to an analysis of the evaluation process from a statewide perspective. Items that are reported by the LEAs on forms provided by the LDE include, but are not limited to, the following items:

1. the number of certified and other professional personnel, by categories, who were evaluated as performing satisfactorily;
2. the number of certified and other professional personnel, by categories, who were evaluated as performing unsatisfactorily;
3. the number of certified and other professional personnel, by categories, who resigned because of less than satisfactory evaluations or for other reasons related to job performance;
4. the number of certified and other professional personnel, by categories, who were terminated because of not having improved performance within the specified time allotment (include the reasons for termination.);
5. the number of evaluations, by categories, used to evaluate certified and other professional personnel during the reporting period (Distinguish between the number of evaluations performed for personnel in position 0-3 years as opposed to personnel in position 4 or more years.);
6. the number of certified personnel, by categories, who improved (from unsatisfactory to satisfactory) as a result of the evaluation process (Report the data by distinguishing between personnel in position 0-3 years and personnel in position 4 or more years.);
7. the number of formal grievances filed because of unsatisfactory performance ratings or disagreement with evaluation results;

8. the number of formal hearings held because of unsatisfactory performance or disagreement with evaluation results;

9. the number of court cases held because of unsatisfactory job performance (the number reinstated and basic reasons for reinstatement of personnel); and

10. the number of evaluatees who received intensive assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2253 (October 2010).

Chapter 9. Appendices

§901. Appendix A. Louisiana Components of Effective Teaching

Domain I. Planning

Planning is an important aspect of the teaching/learning process.

Component A. The teacher plans effectively for instruction.

Attributes:

1. specifies learner outcomes in clear, concise objectives. It is not necessary to specify different objectives for each child or groups of children;

2. includes activity/activities that develop objectives. A required number of activities is not specified because this decision must be made by the teacher;

3. identifies and plans for individual differences. It is not necessary to specifically describe ways individual differences are to be met in written plans. This will be discussed in the pre-observation interview;

4. identifies materials, other than standard classroom materials, as needed for lesson. Standard classroom materials include such things as textbooks, chalkboard, pencils, paper, etc.;

5. states method(s) of evaluation to measure learner outcomes. Evaluation may be formal or informal;

6. develops an Individualized Education Program (IEP), and/or Individualized Family Service Plan (IFSP) as needed for the lesson*. The Individualized Education Program (IEP), and/or Individualized Family Service Plan (IFSP) will meet state regulations.

* For special education teachers only.

Domain II. Management

Management is the organization of the learning environment and maintenance of student behavior. Focus should be placed on teacher behavior.

Component A. The teacher maintains an environment conducive to learning.

Attributes:

1. organizes available space, materials, and/or equipment to facilitate learning;

2. promotes a positive learning climate.

Component B. The teacher maximizes the amount of time available for instruction.

Attributes:

1. manages routines and transitions in a timely manner;

2. manages and/or adjusts allotted time for activities planned.

Component C. The teacher manages learner behavior to provide productive learning opportunities.

Attributes:

1. establishes expectations for learner behavior;

2. uses monitoring techniques to facilitate learning. This may include reinforcing positive behavior, redirecting disruptive behavior, as well as other methods.

Domain III. Instruction

The teacher, as the knowledgeable professional, is the person best suited to determine effective instruction for his/her classroom.

Component A. The teacher delivers instruction effectively.

Attributes:

1. uses technique(s) which develop(s) lesson objective(s). Technique(s) may include teacher-directed activity/activities or student-centered activity/activities;

2. sequences lesson to promote learning. Sequencing means that the teacher initiates, develops, and closes the lesson with continuity;

3. uses available teaching material(s) to achieve lesson objective(s);

4. adjusts lesson content when appropriate;

5. the teacher integrates technology into instruction.

Component B. The teacher presents appropriate content.

Attributes:

1. presents content at a developmentally appropriate level. The teacher is knowledgeable of the content and relates it to the abilities and interests of the students;

2. presents accurate subject matter;

3. relates relevant examples, unexpected situations, or current events to the content.

Component C. The teacher provides opportunities for student involvement in the learning process.

Attributes:

1. accommodates individual differences. The teacher recognizes that students perform at different levels and provides opportunities for them to become involved. There are many ways of accommodating individual differences among children. Some of these are not always evidenced in observations, but in the planning. It may be necessary for the observer to ask the teacher for clarification;

2. demonstrates ability to communicate effectively with students;

3. stimulates and encourages higher-order thinking at the appropriate developmental levels;

4. encourages student participation.

Component D. The teacher demonstrates ability to assess and facilitate student academic growth.

Attributes:

1. consistently monitors ongoing performance of students;

2. uses appropriate and effective assessment techniques. Assessing student performance may include formal and/or informal assessment procedures as well as formative and summative. Feedback may be verbal or non-verbal;

3. provides timely feedback to students;

4. produces evidence of student academic growth under his/her instruction.

Domain IV. Professional Development

The Professional Growth Plan will provide the data to measure the new teacher's professional development activities.

Component A. The experienced teacher plans for professional self-development. These recommended activities are not limited to, but may include, being a mentor teacher; developing curriculum; delivering inservices; serving on textbook committees; developing teaching materials; promoting positive public relations; reading professional literature; conducting research; evaluating programs; and participating in workshops, conferences, professional organizations, school-based activities, classroom observation of peers, and parent/teacher organizations, etc. These activities shall be monitored on the local level.

NOTE: Component A specifications apply only to experienced teachers (those who have met certification requirements).

Component B. The new teacher plans for professional self-development. The intent of Component B is that the new teacher will concentrate on necessary improvements in Domains I, II, III, and/or V.

Attributes:

1. identifies areas of instruction that need strengthening and develops with mentor and/or principal a plan for improvement and works to complete the plan;
2. seeks ideas and strategies from resources (i.e., books, professional journals, websites, etc.) or colleagues that will improve teaching and learning and employs them.

NOTE: Component B specifications apply only to new teachers.

Domain V. School Improvement

Component A. The teacher takes an active role in building-level decision making.

Attributes:

1. participates in grade level and subject area curriculum planning and evaluation;
2. implements school improvement plan at the classroom level;
3. serves on task force(s) and/or committees.

NOTE: Component A, attributes 1 and 2 apply only to new teachers. Attribute 3 applies to experienced teachers only.

Component B. The teacher creates partnerships with parents/caregivers and colleagues.

Attributes:

1. provides clear and timely information to parents/caregivers and colleagues regarding classroom expectations, student progress, and ways they can assist learning;
2. encourages parents/caregivers to become active partners in their children's education and to become involved in school and classroom;
3. seeks community involvement in instructional program.

Louisiana Components of Effective Teaching for Special Education-II

Field and Pilot tests of the Louisiana Teacher Assessment Program revealed that some of the Component, Attribute, and performance specifications needed to be modified to fit the instruction of certain groups of special education students (i.e., students described as having significant disabilities). While the conceptualizations of teacher knowledge and skills embodied in the original Components list capture the essence of effective instruction, their description and the conditions under which they occur are quite different in certain special education settings.

Domain I. Planning

Planning is an important aspect of the teaching/learning process.

Component A. The teacher plans effectively for instruction.

Attributes:

1. specifies learner outcomes in clear, concise objectives;
2. includes activity/environments that develop objectives;
4. identifies materials/ equipment/ resources/ adaptations, other than standard classroom materials, as needed for lesson/activity;
5. states method(s) of evaluation to measure learner outcomes;
6. develops/implements an Individualized Education Program (IEP), and/or Individualized Family Service Plan (IFSP), when appropriate.

Domain II. Management

Management is the organization of the learning environment and maintenance of student behavior. Focus should be placed on teacher behavior.

Component A. The teacher maintains an environment conducive to learning.

Attributes:

1. organizes available space, materials, and/or equipment to facilitate learning;
2. promotes a positive learning climate;
3. promotes a healthy, safe environment.

Component B. The teacher maximizes the amount of time available for instruction.

Attributes:

1. manages routines and transitions in a timely manner;
2. manages and/or adjusts allotted time for activities and provision of auxiliary services.

Component C. The teacher manages learner behavior to provide productive learning opportunities.

Attributes:

1. establishes expectations for learner behavior;
2. uses monitoring techniques to facilitate learning.

Domain III. Instruction

The teacher, as the knowledgeable professional, is the person best suited to determine effective instruction for his/her classroom.

Component A. The teacher delivers instruction effectively.

Attributes:

1. uses technique(s) which develop(s) lesson/activity objective(s);
2. sequences lesson/activity to promote student learning/development;
3. uses available teaching material(s), equipment, and environment to achieve lesson/activity objective(s);
4. adjusts lesson/activity/content when appropriate;
5. the teacher integrates technology into instruction.

Component B. The teacher presents appropriate content.

Attributes:

1. presents functional content appropriate to the learners' capacities;
2. presents relevant subject matter/curriculum content in appropriate settings;
3. illustrates applications of content through examples, unexpected situations, and other means.

Component C. The teacher provides opportunities for student involvement in the learning process.

Attributes:

1. accommodates individual differences;
2. demonstrates ability to communicate effectively with students;
3. stimulates and encourages independent performance and optimal levels of thinking;
4. promotes student participation.

Component D. The teacher demonstrates ability to assess and facilitate student academic growth.

Attributes:

1. consistently monitors ongoing performance of students;
2. uses assessment techniques effectively;
3. provides timely feedback to students, caregivers, parents, and appropriate professional personnel regarding student progress;
4. produces evidence of student academic growth under his/her instruction.

Domain IV. Professional Development

The Professional Growth Plan will provide the data to measure the new teacher's professional development activities.

Component A. The experienced teacher plans for professional self-development.

These recommended activities are not limited to, but may include, being a mentor teacher; developing curriculum; delivering inservices; serving on textbook committees; developing teaching materials; promoting positive public relations; reading professional literature; conducting research; evaluating programs; and participating in workshops, conferences, professional organizations, school-based activities, classroom observation of peers, and parent/teacher organizations, etc. These activities shall be monitored on the local level.

NOTE: Component A specifications apply only to experienced teachers (those who have met certification requirements).

Component B. The new teacher plans for professional self-development.

The intent of Component B is that the new teacher will concentrate on necessary improvements in Domains I, II, III, and/or V as agreed upon with his/her mentor and principal (during first semester of assistance period) and the members of the assessment team (during the assessment semester).

Attributes:

1. identifies areas of instruction that need strengthening and develops with mentor and/or principal a plan for improvement and works to complete the plan;
2. seeks ideas and strategies from resources (i.e., books, professional journals, websites, etc.) or colleagues that will improve teaching and learning and employs them.

NOTE: Component B specifications apply only to new teachers (those who are in their first two years of teaching in the public school system of Louisiana, and have not yet met all requirements for full certification).

Domain V. School Improvement

Component A. The teacher takes an active role in building-level decision making.

Attributes:

1. participates in grade level and subject area curriculum planning and evaluation;
2. implements school improvement plan at the classroom level;
3. serves on task force(s) and/or committees.

NOTE: Component A, attributes 1 and 2 apply only to new teachers. Attribute 3 applies to experienced teachers only.

Component B. The teacher creates partnerships with parents/caregivers and colleagues.

Attributes:

1. provides clear and timely information to parents/caregivers and colleagues regarding classroom expectations, student progress, and ways they can assist learning;
2. encourages parents/caregivers to become active partners in their children's education and to become involved in school and classroom;
3. seeks community involvement in instructional program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2254 (October 2010).

§903. Appendix B. Performance Expectations and Indicators for Education Leaders

PERFORMANCE EXPECTATION 1:

Vision, Mission, and Goals

Education leaders ensure the achievement of all students by guiding the development and implementation of a shared vision of learning, strong organizational mission, and high expectations for every student.

Dispositions exemplified in Expectation 1:

Education leaders believe in, value, and are committed to:

1. every student learning;
2. collaboration with all stakeholders;
3. high expectations for all;
4. examining assumptions and beliefs;
5. continuous improvement using

evidence.

Narrative:

Education leaders are accountable and have unique responsibilities for developing and implementing a vision of learning to guide organizational decisions and actions. Education leaders guide a process for developing and revising a shared vision, strong mission, and goals that are high and achievable for every student when provided with appropriate, effective learning opportunities.

The vision, mission, and goals represent what the community intends for students to achieve, informed by the broader social and policy environment and including policy requirements about specific outcomes and continuous improvement. The vision, mission, and goals become the touchstone for decisions, strategic planning, and change processes. They are regularly reviewed and adjusted, using varied sources of information and ongoing data analysis.

Leaders engage the community to reach consensus about vision, mission, and goals. To be effective, processes of establishing vision, mission, and goals should incorporate diverse perspectives in the broader school community and create consensus to which all can commit. While leaders engage others in developing and implementing the vision, mission, and goals, it is undeniably their responsibility to advocate for and act to increase equity and social justice.

Element A. High Expectations for All

The vision and goals establish high, measurable expectations for all students and educators.

Indicators. A leader:

1. uses varied sources of information and analyzes data about current practices and outcomes to shape a vision, mission, and goals with high, measurable expectations for all students and educators;
2. aligns the vision, mission, and goals to school, district, state, and federal policies (such as content standards and achievement targets);
3. incorporates diverse perspectives and crafts consensus about vision, mission, and goals that are high and achievable for every student when provided with appropriate, effective learning opportunities;
4. advocates for a specific vision of learning in which every student has equitable, appropriate, and effective learning opportunities and achieves at high levels.

Element B. Shared Commitments to Implement the Vision, Mission, and Goals

The process of creating and sustaining the vision, mission, and goals is inclusive, building common understandings and genuine commitment among all stakeholders.

Indicators. A leader:

1. establishes, conducts, and evaluates processes used to engage staff and community in a shared vision, mission, and goals;
2. engages diverse stakeholders, including those with conflicting perspectives, in ways that build shared understanding and commitment to vision, mission, and goals;
3. develops shared commitments and responsibilities that are distributed among staff and the community for making decisions and evaluating actions and outcomes;
4. communicates and acts from shared vision, mission, and goals so educators and the community understand, support, and act on them consistently;
5. advocates for and acts on commitments in the vision, mission, and goals to provide equitable, appropriate, and effective learning opportunities for every student.

Element C. Continuous Improvement toward the Vision, Mission, and Goals

Education leaders ensure the achievement of all students by guiding the development and implementation of a shared vision of learning, strong organizational mission, and high expectations for every student.

Indicators. A leader:

1. uses or develops data systems and other sources of information (e.g., test scores, teacher reports, student work samples) to identify unique strengths and needs of students, gaps between current outcomes and goals, and areas for improvement;
2. makes decisions informed by data, research, and best practices to shape plans, programs, and activities and regularly review their effects;
3. uses data to determine effective change strategies, engaging staff and community stakeholders

in planning and carrying out changes in programs and activities;

4. identifies and removes barriers to achieving the vision, mission, and goals;
5. incorporates the vision and goals into planning (e.g., strategic plan, school improvement plan), change strategies, and instructional programs;
6. obtains and aligns resources (such as learning technologies, staff, time, funding, materials, training, and so on) to achieve the vision, mission, and goals;
7. revises plans, programs, and activities based on systematic evidence and reviews of progress toward the vision, mission, and goals.

PERFORMANCE EXPECTATION 2:

Teaching and Learning

Education Leaders ensure achievement and success of all students by monitoring and continuously improving teaching and learning.

Dispositions exemplified in Expectation 2:

Education leaders believe in, value, and are committed to:

1. learning as the fundamental purpose of school;
2. diversity as an asset;
3. continuous professional growth and development;
4. lifelong learning;
5. collaboration with all stakeholders;
6. high expectations for all;
7. student learning.

Narrative

A strong, positive, professional culture fosters learning by all educators and students. In a strong professional culture, leaders share and distribute responsibilities to provide quality, effectiveness, and coherence across all components of the instructional system (such as curriculum, instructional materials, pedagogy, and student assessment). Leaders are responsible for a professional culture in which learning opportunities are targeted to the vision and goals and differentiated appropriately to meet the needs of every student. Leaders need knowledge, skills, and beliefs that provide equitable differentiation of instruction and curriculum materials to be effective with a range of student characteristics, needs, and achievement.

A strong professional culture includes reflection, timely and specific feedback that improves practice, and support for continuous improvement toward vision and goals for student learning. Educators plan their own professional learning strategically, building their own capacities on the job. Leaders engage in continuous inquiry about effectiveness of curricular and instructional practices and work collaboratively to make appropriate changes that improve results.

Element A. Strong Professional Culture

A strong professional culture supports teacher learning and shared commitments to the vision and goals.

Indicators. A leader:

1. develops shared understanding, capacities, and commitment to high expectations for all students and closing achievement gaps;
2. guides and supports job-embedded, standards-based professional development that improves teaching and learning and meets diverse learning needs of every student;
3. models openness to change and collaboration that improves practices and student outcomes;
4. develops time and resources to build a professional culture of openness and collaboration, engaging teachers in sharing information, analyzing outcomes, and planning improvement;
5. provides support, time, and resources for leaders and staff to examine their own beliefs, values, and practices in relation to the vision and goals for teaching and learning;
6. provides ongoing feedback using data, assessments, and evaluation methods that improve practice;
7. guides and monitors individual professional development plans and progress for continuous improvement of teaching and learning.

Element B. Rigorous Curriculum and Instruction

Improving achievement of all students requires all educators to know and use rigorous curriculum and effective instructional practices, individualized for success of every student.

Indicators. A leader:

1. develops shared understanding of rigorous curriculum and standards-based instructional programs, working with teams to analyze student work, monitor student progress, and redesign curricular and instructional programs to meet diverse needs;
2. provides coherent, effective guidance of rigorous curriculum and instruction, aligning content standards, curriculum, teaching, assessments, professional development, assessments, and evaluation methods;
3. provides and monitors effects of differentiated teaching strategies, curricular materials, educational technologies, and other resources appropriate to address diverse student populations, including students with disabilities, cultural and linguistic differences, gifted and talented, disadvantaged social economic backgrounds, or other factors affecting learning;
4. identifies and uses high-quality research and data-based strategies and practices that are appropriate in the local context to increase learning for every student.

Element C. Assessment and Accountability

Improving achievement and closing achievement gaps require that leaders make appropriate, sound use of assessments, performance management, and accountability strategies to achieve vision, mission, and goals.

Indicators. A leader:

1. develops and appropriately uses aligned, standards-based accountability data to improve the quality of teaching and learning;
2. uses varied sources and kinds of information and assessments (such as test scores, work samples, and teacher judgment) to evaluate student learning, effective teaching, and program quality;
3. guides regular analyses and disaggregation of data about all students to improve instructional programs;
4. uses effective data-based technologies and performance management systems to monitor and analyze assessment results for accountability reporting and to guide continuous improvement;
5. interprets data and communicates progress toward vision, mission, and goals for educators, the school community, and other stakeholders.

PERFORMANCE EXPECTATION 3:

Managing Organizational Systems and Safety

Education leaders ensure the success of all students by managing organizational systems and resources for a safe, high-performing learning environment.

Dispositions exemplified in Expectation 3:

The education leader believes in, values, and is committed to:

1. a safe and supportive learning environment;
2. collaboration with all stakeholders;
3. equitable distribution of resources;
4. operating efficiently and effectively;
5. management in service of staff and student learning.

Narrative

Traditionally, school leaders focused on the management of a school or school district. A well-run school where buses run on time, the facility is clean, and the halls are orderly and quiet used to be the mark of an effective school leader. With the shift to leadership for learning, maintaining an orderly environment is necessary but not sufficient to meet the expectations and accountability requirements facing educators today.

Education leaders need a systems approach in complex organizations of schools and districts. In order to ensure the success of all students and provide a high-performing learning

environment, education leaders manage daily operations and environments through efficiently and effectively aligning resources with vision and goals. Valuable resources include financial, human, time, materials, technology, physical plant, and other system components.

Leaders identify and allocate resources equitably to address the unique academic, physical, and mental health needs of all students. Leaders address any conditions that might impede student and staff learning, and they implement laws and policies that protect safety of students and staff. They promote and maintain a trustworthy, professional work environment by fulfilling their legal responsibilities, enacting appropriate policies, supporting due process, and protecting civil and human rights of all.

Element A. Effective Operational Systems

Leaders distribute leadership responsibilities and supervise daily, ongoing management structures and practices to enhance teaching and learning.

Indicators. A leader:

1. uses effective tools such as problem-solving skills and knowledge of strategic, long-range, and operational planning to continuously improve the operational system;

2. maintains the physical plant for safety, ADA requirements, and other access issues to support learning of every student;

3. utilizes communication and data systems that assure the timely flow of information;

4. oversees acquisition and maintenance of equipment and effective technologies, particularly to support teaching and learning;

5. distributes and oversees responsibilities for leadership of operational systems;

6. evaluates and revises processes to continuously improve the operational system.

Element B. Aligned Fiscal and Human Resources

Leaders establish an infrastructure for finance and personnel that operates in support of teaching and learning.

Indicators. A leader:

1. operates within budget and fiscal guidelines and directs them effectively toward teaching and learning;

2. allocates funds based on student needs within the framework of federal and state rules;

3. aligns resources (such as time, people, space, and money) to achieve the vision and goals;

4. implements practices to recruit and retain highly qualified personnel;

5. assigns personnel to address diverse student needs, legal requirements, and equity goals;

6. conducts personnel evaluation processes that enhance professional practice, in keeping with district and state policies;

7. seeks and secures additional resources needed to accomplish the vision and goals.

Element C: Protecting the Welfare and Safety of Students and Staff

Leaders ensure a safe environment by addressing real and potential challenges to the physical and emotional safety and security of students and staff that interfere with teaching and learning.

Indicators. A leader:

1. advocates for and creates collaborative systems and distributed leadership responsibilities that support student and staff learning and well-being;

2. involves parents, teachers, and students in developing, implementing, and monitoring guidelines and norms for accountable behavior;

3. develops and monitors a comprehensive safety and security plan.

PERFORMANCE EXPECTATION 4:

Collaborating with Families and Stakeholders

Education leaders ensure the success of all students by collaborating with families and stakeholders who represent diverse community interests and needs and mobilizing community resources that improve teaching and learning.

Dispositions exemplified in Expectation 4:

The education leader believes in, values, and is committed to:

1. high standards for all;
2. including family and community as partners;
3. respect for the diversity of family composition;
4. continuous learning and improvement for all.

Narrative

In order to educate students effectively for participation in a diverse, democratic society, leaders incorporate participation and views of families and stakeholders for important decisions and activities of schools and districts. Key stakeholders include educators, students, community members, and organizations that serve families and children.

Leaders recognize that diversity enriches and strengthens the education system and a participatory democracy. Leaders regard diverse communities as a resource and work to engage all members in collaboration and partnerships that support teaching and learning. Leaders help teachers communicate positively with families and make sure families understand how to support their children's learning. In communicating with parents and the community, leaders invite feedback and questions so that communities can be partners in providing the best education for every student.

Element A. Collaboration with Families and Community Members

Leaders extend educational relationships to families and community members to add programs, services, and staff outreach and provide what every student needs to succeed in school and life.

Indicators. A leader:

1. brings together the resources of schools, family members, and community to positively affect student and adult learning, including parents and others who provide care for children;

2. involves families in decision making about their children's education;

3. uses effective public information strategies to communicate with families and community members (such as email, night meetings, and written materials in multiple languages);

4. applies communication and collaboration strategies to develop family and local community partnerships;

5. develops comprehensive strategies for positive community and media relations.

Element B. Community Interests and Needs

Leaders respond and contribute to community interests and needs in providing the best possible education for their children.

Indicators. A leader:

1. identifies key stakeholders and is actively involved within the community, including working with community members and groups that have competing or conflicting perspectives about education;

2. uses appropriate assessment strategies and research methods to understand and accommodate diverse student and community conditions and dynamics;

3. seeks out and collaborates with community programs serving students with special needs;

4. capitalizes on diversity (such as cultural, ethnic, racial, economic, and special interest groups) as an asset of the school community to strengthen educational programs;

5. demonstrates cultural competence in sharing responsibilities with communities to improve teaching and learning.

Element C. Building on Community Resources

Leaders maximize shared resources among schools, districts, and communities that provide key social structures and gathering places, in conjunction with other organizations and agencies that provide critical resources for children and families.

Indicators. A leader:

1. links to and collaborates with community agencies for health, social, and other services to families and children;

2. develops mutually beneficial relationships with business, religious, political, and service organizations to share school and community resources (such as buildings, playing fields, parks, medical clinics, and so on);

3. uses public resources and funds appropriately and effectively;

4. secures community support to sustain existing resources and add new resources that address emerging student needs.

PERFORMANCE EXPECTATION 5:

Ethics and Integrity

Education leaders ensure the success of all students by being ethical and acting with integrity.

Dispositions exemplified in Expectation 5:

The education leader believes in, values, and is committed to:

1. the common good over personal interests;
2. taking responsibility for actions;
3. ethical principles in all relationships and decisions;
4. modeling high expectations;
5. continuously improving knowledge and skills.

Narrative

Local and state education agencies and professional organizations hold educators to codes of ethics, with attention to personal conduct, fiscal responsibilities, and other types of ethical requirements. The Performance Expectations build on concepts of professional ethics and integrity and add an emphasis on responsibilities of leaders for educational equity and social justice in a democratic society. Education is the primary socializing institution, conferring unique benefits or deficits across diverse constituents.

Leaders recognize that there are existing inequities in current distribution of high-quality educational resources among students. Leaders remove barriers to high-quality education that derive from economic, social, cultural, linguistic, physical, gender, or other sources of discrimination and disadvantage. They hold high expectations of every student and assure that all students have what they need to learn what is expected. Further, leaders are responsible for distributing the unique benefits of education more equitably, expanding future opportunities of less-advantaged students and families and increasing social justice across a highly diverse population.

Current policy environments with high-stakes accountability in education require that leaders are responsible for positive and negative consequences of their interpretations and implementation of policies as they affect students, educators, communities, and their own positions. Politically skilled, well-informed leaders understand and negotiate complex policies (such as high-stakes accountability), avoiding potential harm to students, educators, or communities that result from ineffective or insufficient approaches.

Ethics and integrity mean leading from a position of caring, modeling care and belonging in educational settings, personally in their behavior and professionally in concern about students, their learning, and their lives. Leaders demonstrate and sustain a culture of trust, openness, and reflection about values and beliefs in education. They model openness about how to improve learning of every student. They engage others to share decisions and monitor consequences of decisions and actions on students, educators, and communities.

Element A. Ethical and Legal Standards

Leaders demonstrate appropriate ethical and legal behavior expected by the profession.

Indicators. A leader:

1. models personal and professional ethics, integrity, justice, and fairness and expects the same of others;
2. protects the rights and appropriate confidentiality of students and staff;

3. behaves in a trustworthy manner, using professional influence and authority to enhance education and the common good.

Element B. Examining Personal Values and Beliefs

Leaders demonstrate their commitment to examine personal assumptions, values, beliefs, and practices in service of a shared vision and goals for student learning.

Indicators. A leader:

1. demonstrates respect for the inherent dignity and worth of each individual;
2. models respect for diverse community stakeholders and treats them equitably;
3. demonstrates respect for diversity by developing cultural competency skills and equitable practices;
4. assesses own personal assumptions, values, beliefs, and practices that guide improvement of student learning;
5. uses a variety of strategies to lead others in safely examining deeply held assumptions and beliefs that may conflict with vision and goals;
6. respectfully challenges and works to change assumptions and beliefs that negatively affect students, educational environments, and every student learning.

Element C. Maintaining High Standards for Self and Others

Leaders perform the work required for high levels of personal and organizational performance, including acquiring new capacities needed to fulfill responsibilities, particularly for high-stakes accountability.

Indicators. A leader:

1. reflects on own work, analyzes strengths and weaknesses, and establishes goals for professional growth;
2. models lifelong learning by continually deepening understanding and practice related to content, standards, assessment, data, teacher support, evaluation, and professional development strategies;
3. develops and uses understanding of educational policies such as accountability to avoid expedient, inequitable, or unproven approaches that meet short-term goals (such as raising test scores);
4. helps educators and the community understand and focus on vision and goals for students within political conflicts over educational purposes and methods;
5. sustains personal motivation, optimism, commitment, energy, and health by balancing professional and personal responsibilities and encouraging similar actions for others.

PERFORMANCE EXPECTATION 6:

The Education System

Education leaders ensure the success of all students by influencing interrelated systems of political, social, economic, legal, and cultural contexts affecting education to advocate for their teachers' and students' needs.

Dispositions exemplified in Expectation 6:

The education leader believes in, values, and is committed to:

1. advocate for children and education;
2. influence policies;
3. uphold and improve laws and regulations;
4. eliminate barriers to achievement;
5. build on diverse social and cultural assets.

Narrative

Leaders understand that public schools belong to the public and contribute to the public good. They see schools and districts as part of larger local, state, and federal systems that support success of every student, while increasing equity and social justice. Leaders see education as an open system in which policies, goals, resources, and ownership cross traditional ideas about organizational boundaries of schools or districts. Education leaders advocate for education and students in professional, social, political, economic, and other arenas. They recognize how principles and structures of

governance affect federal, state, and local policies and work to influence and interpret changing norms and policies to benefit all students. Professional relationships with a range of stakeholders and policymakers enable leaders to identify, respond to, and influence issues, public awareness, and policies. For example, local elections affect education boards and bond results, in turn affecting approaches and resources for student success. Educators who participate in the broader system strive to provide information and engage constituents with data to sustain progress and address needs. Education leaders in a variety of roles contribute special skills and insights to the legal, economic, political, and social well-being of educational organizations and environments.

Element A. Exerting Professional Influence

Leaders improve the broader political, social, economic, legal, and cultural context of education for all students and families through active participation and exerting professional influence in the local community and the larger educational policy environment.

Indicator. A leader:

1. facilitates constructive discussions with the public about federal, state, and local laws, policies, regulations, and statutory requirements affecting continuous improvement of educational programs and outcomes;
2. actively develops relationships with a range of stakeholders and policymakers to identify, respond to, and influence issues, trends, and potential changes that affect the context and conduct of education;
3. advocates for equity and adequacy in providing for students' and families' educational, physical, emotional, social, cultural, legal, and economic needs, so every student can meet educational expectations and policy goals.

Element B. Contributing to the Educational Policy Environment

Leaders contribute to policies and political support for excellence and equity in education.

Indicators. A leader:

1. operates consistently to uphold and influence federal, state, and local laws, policies, regulations, and statutory requirements in support of every student learning;
2. collects and accurately communicates data about educational performance in a clear and timely way, relating specifics about the local context to improve policies and inform progressive political debates;
3. communicates effectively with key decision makers in the community and in broader political contexts to improve public understanding of federal, state, and local laws, policies, regulations, and statutory requirements;
4. advocates for increased support of excellence and equity in education.

Element C. Policy Engagement

Working with policymakers informs and improves education policymaking and effectiveness of the public's efforts to improve education.

Indicators. A leader:

1. builds strong relationships with the school board, district and state education leaders, and policy actors to inform and influence policies and policymakers in the service of children and families;
2. supports public policies that provide for present and future needs of children and families and improve equity and excellence in education;
3. advocates for public policies that ensure appropriate and equitable human and fiscal resources and improve student learning;
4. works with community leaders to collect and analyze data on economic, social, and other emerging issues that impact district and school planning, programs, and structures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2256 (October 2010).

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RULE

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Carnegie Credit for Middle School Students (LAC 28:CXV.2321)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended Bulletin 741—*Louisiana Handbook for School Administrators*: §2321. Carnegie Credit for Middle School Students. This policy change adds Health Education and Journey to Careers to the list of courses that middle school students can take for high school credit. These are courses that students can take in the eighth grade and enable them to take more courses in high school.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

§2321. Carnegie Credit for Middle School Students

A. Students in grades five through eight are eligible to receive Carnegie credit for courses in the high school program of studies in mathematics, science, social studies, English, foreign language, keyboarding/keyboarding applications, introduction to business computer applications, computer/technology literacy, health education, or Journey to Careers.

B. - F.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1293 (June 2005), amended LR 33:430 (March 2007), LR 33:2601 (December 2007), LR 34:609 (April 2008), LR 34:2031 (October 2008), LR 35:443 (March 2009), LR 35:2319 (November 2009), repromulgated LR 36:59 (January 2010), amended LR 36:2260 (October 2010).

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Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Health Occupations (LAC 28:CXV.2381)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 741—Louisiana Handbook for School Administrators*: §2381. Health Occupations. The amendment reflects an additional one-hour credit for the

Introduction to Emergency Medical Technology course. Introduction to Emergency Medical Technology is a basic level course for students prior to acceptance into Emergency Medical Technician-Basic (EMT-B). Since it requires a lower level of knowledge, some districts have asked that it be considered also as a one-credit course. The course content can be covered in this timeframe, thus leading to a two- or three-credit EMT-B course. Districts will be capable of offering their students a better opportunity to further their career path in the emergency health care area of concentration.

**Title 28
EDUCATION**

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

**Chapter 23. Curriculum and Instruction
§2381. Health Occupations**

A. Health Occupations course offerings shall be as follows.

Course Title(s)	Recommended Grade Level	Units
AHEC of a Summer Career Exploration	9-12	1/2
Allied Health Services I	10-12	1-2
Allied Health Services II	10-12	1-2
Cooperative Health Occupations	11-12	3
Dental Assistant I	10-12	1-2
Dental Assistant II	11-12	2-3
Emergency Medical Technician—Basic	12	2-3
First Responder	10-12	1/2-2
Health Occupations Elective I, II	9-12	1/2-3
Health Science I	11-12	1-2
Health Science II	12	1-2
Introduction to Emergency Medical Technology	10-12	1-2
Introduction to Health Occupations	9-12	1
Introduction to Pharmacy Assistant	10-12	1
Medical Assistant I	10-12	1-2
Medical Assistant II	11-12	1-2
Medical Assistant III	12	1-2
Medical Terminology	9-12	1
Nurse Assistant	10-12	2-3
Patient Care Technician	12	3
Pharmacy Technician	12	1-2
Sports Medicine I	10-12	1/2
Sports Medicine II	11-12	1/2
Sports Medicine III	11-12	1

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1300 (June 2005), amended LR 33:279 (February 2007), LR 33:1615 (August 2007), LR 33:2051 (October 2007), LR 35:1875 (September 2009), LR 35:2320 (November 2009), LR 35:2749 (December 2009), LR 36:2261 (October 2010).

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RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Alternative Path to Certification (LAC 28:CXXXI.233, 235, and 237)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements), §235. The Master’s Degree Program Alternative Path to Certification (Minimum Requirements), and §237. Certification-Only Program Alternative Path to Certification. This revision in policy would allow the adoption of the Praxis: Teaching Reading (#0204) exam as a reading competency assessment for use by alternative certification candidates enrolled in a Practitioner Teacher Program, Certification-Only Alternate Program and Master’s Degree Alternate Program. According to current BESE policy, all alternate certification candidates must meet the reading competency requirements by either completing the same number of reading hours required for undergraduate candidates or by passing a reading competency assessment. Until now, a reading competency assessment aligned to the Louisiana Reading Competencies adopted by BESE has not been available.

**Title 28
EDUCATION**

Part CXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

**Chapter 2. Louisiana Teacher Preparation Programs
Subchapter B. Alternate Teacher Preparation Programs
§233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)**

A. - I.5.f.iii. ...

6. All candidates entering an alternate certification program after May 1, 2004, must demonstrate proficiency in the reading competencies as adopted by the BESE through either of the following:

a. successfully complete the same number of semester hours in reading as required for undergraduate teacher preparation programs:

i. early childhood PK-3, elementary 1-5 or general-special education mild/moderate 1-5 programs, nine hours;

ii. middle grades 4-8 programs or general-special education mild/moderate 4-8, six hours;

iii. secondary 6-12 all-level K-12 or general-special education mild/moderate 6-12 programs, three hours;

iv. special education areas (early interventionist, hearing impaired, significant disabilities, or visually impaired), nine hours; or

b. pass a reading competency assessment.

7. The reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is the Praxis Teaching Reading exam (#0204). (middle grades 4-8 and secondary grades 6-12 will be

required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted.)

J. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 36:2261 (October 2010).

§235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements)

A. - E.4.j. ...

5. prior to receiving a Level 1 or higher professional teaching certificate, a candidate who entered an alternate certification program after May 1, 2004, is required to demonstrate proficiency in the reading competencies as adopted by the BESE through either of the following:

a. successfully complete the same number of semester hours in reading as required for undergraduate teacher preparation programs:

- i. early childhood PK-3 or elementary 1-5 programs, 9 hours;
- ii. middle grades 4-8 programs, 6 hours;
- iii. secondary 6-12 or All-Level K-12 programs, 3 hours;
- iv. special education areas (early interventionist, hearing impaired, significant disabilities, or visually impaired), 9 hours; or

b. pass a reading competency assessment.

6. The reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is the Praxis Teaching Reading exam (#0204). (Middle grades 4-8 and secondary grades 6-12 will be required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1792 (October 2006), amended LR 35:1480 (August 2009), LR 36:2262 (October 2010).

§237. Certification-Only Program Alternative Path to Certification

A. - D.3.e. ...

4. Reading Requirements. Candidates completing an alternate certification program after May 1, 2004, are required to demonstrate proficiency in the reading competencies as adopted by BESE through one of the following options:

a. successfully complete same number of semester hours in reading as required for undergraduate teacher preparation programs:

- i. early childhood PK-3 or elementary 1-5 programs, nine hours;
- ii. middle grades 4-8 programs, six hours;
- iii. secondary 6-12 or all-level K-12 programs, three hours;
- iv. special education areas (early interventionist, hearing impaired, significant disabilities, or visually impaired), nine hours; or

- b. pass a reading competency assessment;
- c. the reading competency assessment for early childhood PK-3, elementary 1-5, and special education candidates is the Praxis Teaching Reading exam (#0204). (Middle grades 4-8 and secondary grades 6-12 will be required to take the required reading course credit hours or equivalent contact hours until an appropriate reading competency assessment is developed and adopted.)

D.5. - E.2.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1794 (October 2006), amended LR 35:1482 (August 2009), LR 36:2262 (October 2010).

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1010#060

RULE

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Alternate Teacher Preparation Programs
(LAC 28:CXXXI.233, 235, 237, 241, 243, 611, and 615)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education has amended *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements), §235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements), §237. Certification-Only Program Alternative Path to Certification, §241. PRAXIS I SCORES, §243. ACT/SAT Scores in Lieu of PRAXIS I SCORES, §611. Requirements to add a Secondary (grades 6-12) Specialty Core Content Area as defined in the No Child Left Behind (NCLB) Act of 2001 (English, Math, Foreign Language, Science, and Social Studies), and §615. Requirements to Add an All-Level (K-12) Area (Art, Dance, Foreign Language, Health and Physical Education, and Music). This revision of the Praxis examination policy will allow the replacement of the current Praxis exams in Business Education and Foreign Languages in French, German, and Spanish with new editions of the following Praxis exams: Business Education: Content Knowledge (#0101), French: World Language (#0174), German: World Language (#0183) and Spanish: World Language (#0195) effective September 1, 2010. In addition, the revision would phase out the use of the Principles of Learning and Teaching K-6, 5-9 or 7-12 exams for all-level (grades K-12) foreign language candidates with the World Languages Pedagogy (#0841) effective July 1, 2013. The current Praxis exams required for Louisiana licensure in Business Education, French German and Spanish will be phased out by Educational Testing Service.

Title 28
EDUCATION

Part CXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 2. Louisiana Teacher Preparation Programs
Subchapter B. Alternate Teacher Preparation Programs
§233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)

A. - I.4.e. ..

5. passed the pedagogy examination (Praxis):
 - a. grades PK-3: Principles of Learning and Teaching Early Childhood (#0521);
 - b. grades 1-5: Principles of Learning and Teaching K-6 (#0522);
 - c. grades 4-8: Principles of Learning and Teaching 5-9 (#0523);
 - d. grades 6-12: Principles of Learning and Teaching 7-12 (#0524);
 - e. all-level K-12 Certification: Principles of Learning and Teaching K-6, 5-9, or 7-12;
 - f. foreign languages: World Languages Pedagogy (#0841);
 - g. general-special education mild/moderate: Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Mild to Moderate Disabilities (#0542); In addition to one of the following aligned to candidates grade level:
 - i. grades 1-5: Principles of Learning and Teaching K-6 (#0522);
 - ii. grades 4-8: Principles of Learning and Teaching 5-9 (#0523);
 - iii. grades 6-12: Principles of Learning and Teaching 6-12 (#0524);

I.6. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 36:2263 (October 2010).

§235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements)

A. - E.3.f. ...

4. passed the pedagogy examination (Praxis):
 - a. grades PK-3 Principles of Learning and Teaching Early Childhood (#0521);
 - b. grades 1-5—Principles of Learning and Teaching K-6 (#0522);
 - c. grades 4-8—Principles of Learning and Teaching 5-9 (#0523);
 - d. grades 6-12—Principles of Learning and Teaching 7-12 (#0524);
 - e. all-level K-12 Certification—Principles of Learning and Teaching K-6, 5-9, or 7-12;
 - f. foreign languages : World Languages Pedagogy (#0841);
 - g. General-Special Education Mild/Moderate—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Mild to Moderate Disabilities (#0542); In addition to one of the following aligned to candidates grade level:

- i. grades 1-5: Principles of Learning and Teaching K-6 (#0522);
- ii. grades 4-8: Principles of Learning and Teaching 5-9 (#0523);
- iii. grades 6-12: Principles of Learning and Teaching 6-12 (#0524);
- h. Special Education Early Interventionist Birth to Five Years—Education of Exceptional Students: Core Content Knowledge (#0353) and Principles of Learning and Teaching: Early Childhood (#0521)
- i. Special Education Significant Disabilities 1-12—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Severe to Profound Disabilities (#0544);
- j. Special Education Hearing Impaired K-12—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Hearing Impairment (#0271);
- k. Special Education Visual Impairments/Blind K-12—Education of Exceptional Students: Core Content Knowledge (#0353);

5. - 5.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1792 (October 2006), amended LR 35:1480 (August 2009), LR 36:2263 (October 2010).

§237. Certification-Only Program Alternative Path to Certification

A. - E.1. ...

2. Standard Professional License—a standard Level certificate may be issued after the applicant has:
 - a. completed all program requirements with a 2.50 or higher GPA (this applies to candidates in a university program); and
 - b. passed the pedagogy examination (Praxis):
 - i. grades PK-3—Principles of Learning and Teaching Early Childhood (#0521);
 - ii. grades 1-5—Principles of Learning and Teaching K-6 (#0522);
 - iii. grades 4-8—Principles of Learning and Teaching 5-9 (#0523);
 - iv. grades 6-12—Principles of Learning and Teaching 7-12 (#0524);
 - v. all-level K-12 certification—Principles of Learning and Teaching K-6, 5-9, or 7-12;
 - vi. foreign languages: World Languages Pedagogy (#0841);
 - vii. Special Education Early Interventionist Birth to Five Years—Education of Exceptional Students: Core Content Knowledge (#0353) and Principles of Learning and Teaching Early Childhood (#0521);
 - viii. Special Education Significant Disabilities 1-12—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Severe to Profound Disabilities (#0544);
 - ix. Special Education Hearing Impaired K-12—Education of Exceptional Students: Core Content Knowledge (#0353) and Education of Exceptional Students: Hearing Impairment (#0271);

x. Special Education Visual Impairments/Blind K-12—Education of Exceptional Students: Core Content Knowledge (#0353);

c. completed all requirements of the Certification-Only alternative certification path as verified to the Louisiana Department of Education by the program provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1794 (October 2006), amended LR 35:1482 (August 2009), LR 36:2263 (October 2010).

§241. PRAXIS I SCORES

A. - B.Table. ...

C. Certification Areas

1. Grades 6-12 Certification

Grades 6-12 Certification Areas			Score	PLT 7-12		
Agriculture	Agriculture (0700)	Effective 7/1/05	510	---	---	161
Business	Business Education (0100)	Prior to 5/31/04 Effective 6/1/04	540 570	---	---	161
	Business Education: Content Knowledge (0101)	Effective 9/18/10	154			
English	English Language, Literature, & Composition: Content Knowledge (0041)		160	---	---	161
	Pedagogy (0043)		130			
Family & Consumer Sciences (formerly Home Economics)	Family & Consumer Sciences (0120)	Prior to 12/31/08	510	---	---	161
	Family & Consumer Sciences (0121)	Effective 1/1/09	141			
French	French (0170) Prior to 5/31/04			PLT 7-12 (Score 161) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
	French: Content Knowledge (0173)	Effective 6/1/04	520			
	French: World Language (0174)	Effective 10/15/10	156 157			
German	German (0180) Prior to 6/30/06		500			
	German: Content Knowledge (0181)	Effective 7/1/06	151			
	German: World Language (0183)	Effective 10/15/10	157			
Mathematics	Mathematics (0060) Prior to 5/31/04		550	---	---	161
	Mathematics: Content Knowledge (0061)	Effective 6/1/04	125			
		Effective 6/1/07	130			
		Effective 6/1/10	135			
School Librarian	Library Media Specialist (0310)	Prior to 9/11/09	560	---	---	---
	Library Media Specialist (0311)	Effective 9/12/09	136			
Social Studies	Social Studies: Content Knowledge (0081)		149	---	---	161
	Interpretation of Materials (0083)		152			
Biology	Biology & General Science (0030)	Prior to 6/30/05	580	---	---	161
	Biology: Content Knowledge (0235)	Effective 7/1/05	150			
Chemistry	Chemistry/Physics/General Science (0070)	Prior to 6/30/06	530			161
	Chemistry: Content Knowledge (0245)	Effective 7/1/06	151			
Earth Science	None Available**					161
Environmental	None Available**					161
General Science	General Science: Content Knowledge (0435)	Effective 7/1/05	156	---	---	161
	Biology & General Science (0030)	Prior to 6/30/05	580			
	or Chemistry/Physics/General Science (0070)	Prior to 6/30/06	530			
Physics	Chemistry/Physics/General Science (0070)	Prior to 6/30/06	530			161
	Physics: Content Knowledge (0265)	Effective 7/1/06	141			
Spanish	Spanish (0190) Prior to 5/31/04			PLT 7-12 (Score 161) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
	Spanish: Content Knowledge (0191)	Effective 6/1/04	540			
	Spanish: World Language (0195)	Effective 10/15/10	160 157			
Speech	Speech Communications (0220)	Effective 7/1/05	575	---	---	161
	Speech Communications (0221)	Effective 9/12/09	146			
Technology Education (formerly Industrial Arts)	Technology Education (0050)	Effective 7/1/05	600	---	---	161

2. All-Level K-12 Certification

All-Level K-12 Certification Areas								
			Score	PLT K-6		PLT 5-9		PLT 7-12
Grades K-12 Art	Art: Content Knowledge (0133)	Effective 7/1/05	155	161	or	154	or	161
Grades K-12 Dance	None Available**		---	161	or	154	or	161
Grades K-12 Foreign Languages	French (0170)	Prior to 5/31/04	520	PLT K-6 (Score 161) or PLT 5-9 (Score 154) or PL7-12 (Score 161) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)				
	French: Content Knowledge (0173)	Effective 6/1/04	156					
	French: World Languages (0174)	Effective 10/15/10	157					
	German (0180)		500					
	German: Content Knowledge (0181)	Effective 7/1/06	151					
	German: World Language (0183)	Effective 10/15/10	157					
	Spanish (0190)	Prior to 5/31/04	540					
Spanish: Content Knowledge (0191)	Effective 6/1/04	160						
Spanish: World Language (0195)	Effective 10/15/10	157						
Grades K-12 Music	Music Education (0110)	Prior to 5/31/04	530	161	or	154	or	161
	Music: Content Knowledge (0113)	Effective 6/1/04	151					
Grades K-12 Health and Physical Education	Physical Education (0090)	Prior to 5/31/04	550	161	or	154	or	161
	Phys. Education: Content Knowledge (0091)	Effective 6/1/04	146					

**At this time, a content area exam is not required for certification in Louisiana.

D. - E. Table. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1836 (October 2006), amended LR 33:2355 (November 2007), LR 35:644 (April 2009), LR 36:484 and 487 (March 2010), LR 36:2264 (October 2010).

§243. ACT/SAT Scores in Lieu of PRAXIS I SCORES

A. - B. Table. ...

C. Certification Areas

1. Grades 6-12 Certification

Grades 6-12 Certification Areas						
			Score			PLT 7-12
Agriculture	Agriculture (0700)	Effective 7/1/05	510	---	---	161
Biology	Biology & General Science (0030)	Prior to 6/30/05	580	---	---	161
	Biology: Content Knowledge (0235)	Effective 7/1/05	150			
Business	Business Education (0100)	Prior to 5/31/04	540	---	---	161
		Effective 6/1/04	570			
	Business Education: Content Knowledge (0101)	Effective 9/18/10	154			
Chemistry	Chemistry/Physics/General Science (0070)	Prior to 6/30/06	530			161
	Chemistry: Content Knowledge (0245)	Effective 7/1/06	151			
English	English Language, Literature, & Composition: Content Knowledge (0041)		160			
	Pedagogy (0043)		130	---	---	161
Family & Consumer Sciences (formerly Home Economics)	Family & Consumer Sciences (0120)	Prior to 12/31/08	510	---	---	161
	Family & Consumer Sciences (0121)	Effective 1/1/09	141			
French	French (0170)	Prior to 5/31/04	520	PLT7-12 (Score 161) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
	French: Content Knowledge (0173)	Effective 6/1/04	156			
	French: World Language (0174)	Effective 10/15/10	157			
General Science	Biology & General Science (0030) –OR–		580	---	---	161
	Chemistry/Physics/General Science (0070) Prior to 6/30/05		530			
	General Science: Content Knowledge (0435)	Effective 7/1/05	156			
German	German (0180)		500	PLT7-12 (Score 161) until 6/30/13; After 6/30/13 World Languages Pedagogy 0841 (Score 158)		
	German: Content Knowledge (0181)	Effective 7/1/06	151			
	German: World Language (0183)	Effective 10/15/10	157			
Mathematics	Mathematics (0060)	Prior to 5/31/04	550	---	---	161
	Mathematics: Content Knowledge (0061)	Effective 6/1/04	125			
		Effective 6/1/07	130			
		Effective 6/1/10	135			
Physics	Chemistry/Physics/General Science (0070)	Prior to 6/30/06	530			161
	Physics: Content Knowledge (0265)	Effective 7/1/06	141			
School Librarian	Library Media Specialist (0310)	Prior to 9/11/09	560	---	---	---
	Library Media Specialist (0311)	Effective 9/12/09	136			
Social Studies	Social Studies: Content Knowledge (0081)		149	---	---	161
	Interpretation of Materials (0083)		152			

Grades 6-12 Certification Areas						
			Score	PLT 7-12		
Spanish	Spanish (0190)	Prior to 5/31/04	540	PLT7-12 (Score 161) until 6/30/13; After 6/30/13 World Languages Pedagogy0841 (Score 158)		
	Spanish: Content Knowledge (0191)	Effective 6/1/04	160			
	Spanish: World Language (0195)	Effective 10/15/10	157			
Speech	Speech Communications (0220)	Effective 7/1/05	575	---	---	161
	Speech Communications (0221)	Effective 9/12/09	146			
Technology Education (formerly Industrial Arts)	Technology Education (0050)	Effective 7/1/05	600	---	---	161
Computer Science Earth Science Environmental Science Journalism Latin Marketing (formerly Distributive Education)	At this time, a content area exam is not required for certification in Louisiana.		---	---	---	161

2. All-Level K-12 Certification

All-Level K-12 Certification Areas								
			Score	PLT K-6		PLT 5-9		PLT 7-12
Grades K-12 Art	Art: Content Knowledge (0133)	Effective 7/1/05	155	161	or	154	or	161
Grades K-12 Dance	None Available**		---	161	or	154	or	161
Grades K-12 Foreign Languages	French (0170)	Prior to 5/31/04	520	161	or	154	or	161
	French: Content Knowledge (0173)	Effective 6/1/04	156					
	German (0180)		500					
	German: Content Knowledge (0181)	Effective 7/1/06	151					
	Spanish (0190)	Prior to 5/31/04	540					
	Spanish: Content Knowledge (0191)	Effective 6/1/04	160					
Grades K-12 Music	Music Education (0110)	Prior to 5/31/04	530	161	or	154	or	161
	Music: Content Knowledge (0113)	Effective 6/1/04	151					
Grades K-12 Health and Physical Education	Physical Education (0090)	Prior to 5/31/04	550	161	or	154	or	161
	Phys. Education: Content Knowledge (0091)	Effective 6/1/04	146					

**At this time, a content area exam is not required for certification in Louisiana.

D. - E. Table. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 36:2265 (October 2010).

Chapter 6. Endorsements to Existing Certificates Subchapter A. Regular Education Level and Area Endorsements

§611. Requirements to add a Secondary (grades 6-12) Specialty Core Content Area as defined in the No Child Left Behind (NCLB) Act of 2001 (English, Math, Foreign Language, Science, and Social Studies)

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), or special education certificate must achieve the following:

1. passing score for Praxis secondary specialty area exam in the content area; or 30 credit hours in the specialty content area; and
2. passing Praxis score for Principles of Learning and Teaching 7-12 exam; or
3. passing Praxis score for World Languages Pedagogy (0841) if adding a foreign language after 6/30/13.

B. Individuals holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12) or an All-Level K-12 certificate (art, dance,

foreign language, health, physical education, health and physical education, and music), achieve one of the following:

1. passing score for Praxis secondary specialty area exam(s) required for the content area; or
2. 30 credit hours in the specialty content area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1816 (October 2006), amended LR 36:2266 (October 2010).

§615. Requirements to Add an All-Level (K-12) Area (Art, Dance, Foreign Language, Health and Physical Education, and Music)

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve one of the following:

1. passing score for Praxis specialty area exam in the area of endorsement; or
2. 30 semester hours in the specialty area; and
3. for any foreign language add-on after 6/30/13 a passing Praxis score for World Languages Pedagogy (0841) is required.

B. To Add a Second Music Area Endorsement: An individual already certified in either Instrumental Music or Vocal Music may add the second music area with coursework, as follows:

1. to add Instrumental Music, 12 semester hours to include brass, percussion, string, and woodwind instruments; or

2. to add Vocal Music, 12 semester hours to include piano and voice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1816 (October 2006), amended LR 36:2266 (October 2010).

Jeanette Vosburg
Executive Director

1010#059

RULE

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Rockefeller State Wildlife
Scholarship
(LAC 28:IV.1101, 1103, 1107, 1109, and 1111)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (LSA-R.S. 17:3021-3025, LSA-R.S. 3041.10-3041.15, LSA-R.S. 17:3042.1, LSA-R.S. 17:3048.1, LSA-R.S. 17:3048.5 and LSA-R.S. 17:3048.6). (SG10115R)

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs Chapter 11. Rockefeller State Wildlife Scholarship §1101. General Provisions

A. - A.3. ...

B. Description, History and Purpose

1. The Rockefeller State Wildlife Scholarship Program was established in 1980 and is funded with dedicated monies. Through the 2009-2010 academic year, the program provided competitively awarded funds of \$1,000 per academic year to both undergraduate and graduate students majoring in forestry, wildlife, or marine science as it pertains to wildlife, with a requirement that the awardee repay the funds if the student did not earn a degree in one of these fields. Beginning with the 2010-2011 academic year, the program offers competitively awarded scholarships of \$2,000 per academic year for undergraduate students and \$3,000 per academic year for graduate students.

2.a. Through the 2009-2010 academic year, students accepting the Rockefeller State Wildlife Scholarship agreed:

i. to attain a degree in one of the required fields at a Louisiana public college or university offering such degrees; and

ii. if the student failed or fails to successfully complete an eligible course of study, to repay the funds with interest as per the agreement made between LASFAC and the student.

b. Beginning with the 2010-2011 academic year, the Rockefeller State Wildlife Scholarship Program is a pure scholarship for undergraduate students who have earned at least 60 credit hours and graduate students.

c. Students who received the award during the 2009-2010 academic year who have not yet earned 60 hours of academic credit may receive the award as a scholarship beginning with the 2010-2011 academic year if the requirements to maintain eligibility have been met.

C. Award Amounts

1. Through the 2009-2010 academic year:

a. the annual award is \$1,000;

b. the cumulative maximum award is \$7,000 for up to five years of undergraduate and two years of graduate study.

2. Beginning with the 2010-2011 academic year and thereafter:

a. the annual award is \$2,000 for undergraduate students;

b. the annual award is \$3,000 for graduate students;

c. the cumulative maximum award is \$12,000 for up to three years of undergraduate and two years of graduate study.

D. Award Disbursements

1. Through the 2009-2010 academic year, the award is disbursed:

a. at postsecondary institutions using semesters at the rate of \$500 each fall and spring semester; or

b. at postsecondary institutions using terms at the rate of \$333 for the fall and winter term and of \$334 for the spring term.

2. Beginning with the 2010-2011 academic year and thereafter, the award is disbursed:

a. at postsecondary institutions using semesters at the rate of:

i. \$1,000 each fall and spring semester for undergraduate students; and

ii. \$1,500 each fall and spring semester for graduate students; or

b. at postsecondary institutions using terms at the rate of:

i. \$667 for each fall and winter and of \$666 for the spring term for undergraduates; and

ii. \$1,000 for each fall, winter term and spring term for graduates.

3. In the event there are unawarded appropriated funds at the end of the spring semester or term, such funds may be disbursed pro-rata to students who received an award during the preceding academic year and are enrolled full-time during the summer.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:639 (April 1998), amended LR 24:1908 (October 1998), repromulgated LR 27:1859 (November 2001), amended LR 34:235 (February 2008), LR 36:2267 (October 2010).

§1103. Establishing Eligibility

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

5.a. beginning with the 2008-2009 academic year:

i. through the 2009-2010 academic year, to be eligible for the award for both fall and spring semesters of the academic year (college), complete and submit the Rockefeller Wildlife Scholarship Application and a master promissory note so that they are received by LOSFA no later than July 1 preceding the fall semester for which the award is sought; or

ii. to be eligible for the award, if funds are available for the spring semester of the academic year (college), complete and submit the Rockefeller Wildlife Scholarship Application and a master promissory note so that they are received by LOSFA no later than December 1 immediately preceding the spring semester for which the award is sought; and

b. beginning with the 2010-2011 academic year:

i. to be eligible for the scholarship for both fall and spring semesters of the academic year (college), complete and submit the Rockefeller Wildlife Scholarship Application so that it is received by LOSFA no later than July 1 preceding the fall semester for which the scholarship is sought; or

ii. to be eligible for the scholarship, if funds are available for the spring semester of the academic year (college), complete and submit the Rockefeller Wildlife Scholarship Application so that it is received by LOSFA no later than December 1 immediately preceding the spring semester for which the scholarship is sought; and

6. agree that award proceeds will be used exclusively for educational expenses; and

7. a. through the 2009-2010 academic year, be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public college or university majoring in forestry, wildlife or marine science as it pertains to wildlife, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; or

b. for the 2010-2011 academic year and thereafter, be an undergraduate recipient of the award during the 2009-2010 academic year and enrolled full-time or an undergraduate with at least 60 earned hours of college credit and enrolled full-time or graduate student and enrolled full-time at a Louisiana public college or university majoring in forestry, wildlife or marine science as it pertains to wildlife, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

8.a. through the 2009-2010 academic year, must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12, have taken the ACT or SAT and received test score results and, beginning with the 2006-2007 academic year (college), have an ACT score of at least 20; or

b. beginning with the 2006-2007 academic year (college) and through the 2009-2010 academic year, must be a qualified home study completer and, if at the time of

application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, achieve an ACT score of at least 22; or

c.i. through the 2009-2010 academic year, if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average; or

ii. beginning with the 2010-2011 academic year, the student applicant has earned 60 or more hours of college credit with at least a 2.50 cumulative college grade point average; or

d. if, at the time of application, the student is in graduate school, then the applicant must have at least a 3.00 cumulative grade point average on all credits earned in graduate school.

9. Through the 2009-2010 academic year, to be a qualified home study completer for the purposes of this Section, the applicant must:

a. successfully complete at the twelfth grade level a home study program approved by BESE; or

b. if a Louisiana public high school, a Louisiana nonpublic high school, an approved non-Louisiana high school, or an out-of-state high school was previously attended, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school.

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998), LR 27:1220 (August 2001), repromulgated LR 27:1859 (November 2001), amended LR 28:774 (April 2002), LR 29:125 (February 2003), LR 30:2020 (September 2004), LR 33:87 (January 2007), LR 34:235 (February 2008), LR 36:2268 (October 2010).

§1107. Maintaining Eligibility

A. To continue receiving the Rockefeller State Wildlife Scholarship, recipients must meet all of the following criteria:

1.a. for recipients first accepting the award through the 2009-2010 academic year, have received the scholarship for not more than seven academic years (five undergraduate and two graduate); or

b. for recipients first accepting the award for the 2010-2011 academic year and thereafter, have received the scholarship for not more than five academic years (three undergraduate and two graduate); and

2. - 5. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1859 (November 2001), amended LR 31:2215 (September 2005), LR 34:235 (February 2008), LR 36:2268 (October 2010).

§1109. Acceptance of Award

A.1. For recipients first accepting the award through the 2009-2010 academic year, prior to receiving an award, the recipient must agree to the terms and conditions contained in the Rockefeller State Wildlife Scholarship Program Promissory Note (LASFAC-Form RS02), by completing the form and returning it to LASFAC by the specified deadline.

The promissory note obligates the recipient to obtain a Wildlife, Forestry or Marine Science degree or repay the scholarship funds received, plus accrued interest and any collection costs incurred.

2. For recipients accepting the award for the 2010-2011 academic year and thereafter, prior to receiving an award, the recipient must agree to the terms and conditions contained in the Rockefeller State Wildlife Scholarship Program Application, by completing the form and returning it to LASFAC by the specified deadline. The scholarship obligates the recipient to seek a Wildlife, Forestry or Marine Science degree or lose eligibility for future awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001), amended LR 36:2268 (October 2010).

§1111. Discharge of Obligation for Recipients First Accepting an Award through the 2009-2010 Academic Year

A. The loan obligation for awards received through the 2009-2010 academic year may be discharged by graduation in an eligible major, monetary repayment or cancellation.

B. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:640 (April 1998), amended LR 24:1909 (October 1998), repromulgated LR 27:1860 (November 2001), amended LR 28:775 (April 2002), LR 30:780 (April 2004), LR 30:1168 (June 2004), LR 36:2269 (October 2010).

George Badge Eldredge
General Counsel

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RULE

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

Scholarship/Grant Programs—Taylor Opportunity Program for Students (TOPS) (LAC 28:IV.703 and 803)

The Louisiana Student Financial Assistance Commission (LASFAC) has amended its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6). (SG10116R)

Title 28

EDUCATION

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

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

§703. Establishing Eligibility

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

(b). For students graduating in academic year (high school) 2006-2007 through the 2008-2009 academic year (high school), for purposes of satisfying the

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

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III*, Advanced Mathematics II[beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math – Pre-Calculus], Advanced Mathematics II [beginning with the 2008-2009 academic year (high school) this course is renamed Advanced Math –Functions and Statistics]
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	

(c). For students graduating in academic year (high school) 2009-2010 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Physical Science	Integrated Science
Algebra I	Algebra I, Parts 1 and 2, Integrated Mathematics I, Applied Algebra I
Applied Algebra IA and IB	Applied Mathematics I and II
Algebra I, Algebra II and Geometry	Integrated Mathematics I, II and III
Algebra II	Integrated Mathematics II
Geometry	Integrated Mathematics III, Applied Geometry
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Pre-Calculus, Algebra III, Probability and Statistics, Discrete Mathematics, Applied Mathematics III* Advanced Math – Pre-Calculus**, Advanced Math – Functions and Statistics***
Chemistry	Chemistry Com
Fine Arts Survey	Speech III and Speech IV (both units)
Western Civilization	European History
Civics	AP American Government
*Applied Mathematics III was formerly referred to as Applied Geometry	
**Advanced Math – Pre-Calculus was formerly referred to as Advanced Mathematics II	
***Advanced Math – Functions and Statistics was formerly referred to as Advanced Mathematics II	

A.5.a.iii. – J.4.b.ii. ...

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998),

amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010).

Chapter 8. TOPS-Tech Award

§803. Establishing Eligibility

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

b. For students graduating in academic year (high school) 2008-2009 and after, for purposes of satisfying the requirements of §803.A.6.a above, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course	Equivalent (Substitute) Course
Business English	Senior Applications in English
Geometry, Trigonometry, Calculus, or Comparable Advanced Mathematics	Math Essentials

c. for students in graduating classes prior to 2004, core units may be waived upon sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

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

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

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998), amended LR 24:2237 (December 1998), LR 25:1795 (October 1999), LR 26:65 and 67 (January 2000), LR 26:1602 (August 2000), LR 26:1997 (September 2000), LR 26:2269 (October 2000), LR 26:2754 (December 2000), LR 27:36 (January 2001), LR 27:1220 (August 2001), repromulgated LR 27:1854 (November 2001), amended LR 28:447 (March 2002), LR 28:773 (April 2002), LR 28:2330 (November 2002), LR 29:554 (April 2003), LR 30:1164 (June 2004), LR 30:2019 (September 2004), LR 31:39 (January 2005), LR 31:3114 (December 2005), LR 33:437 (March 2007), LR 33:2614 (December 2007), LR 35:230 (February 2009), LR 36:491 (March 2010), LR 36:2270 (October 2010).

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RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

**Exemption for Tanks Storing Corrosive Materials
(LAC 33:III.2103)(AQ312)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.2103.G. (AQ312)

This Rule exempts tanks storing corrosive materials at the Rhodia, Inc. Baton Rouge facility from the "submerged fill pipe" provisions of LAC 33:III.2103.A and B. Existing tanks are currently operating under Permit No. 0840-00033-V2, issued November 30, 2009, and are identified as follows:

Tank Number	Service	TEMPO ID	Requirement Citation
30D260	Spent Sulfuric Acid	EQT008	LAC 33:III.2103.B
30D070	Spent Sulfuric Acid	EQT161	LAC 33:III.2103.B
30D100	Spent Sulfuric Acid	EQT163	LAC 33:III.2103.B
30D110	Spent Sulfuric Acid	EQT164	LAC 33:III.2103.B
30D120	Spent Sulfuric Acid	EQT165	LAC 33:III.2103.B
30D140	Spent Sulfuric Acid	EQT167	LAC 33:III.2103.B
30D150	Spent Sulfuric Acid	EQT168	LAC 33:III.2103.B
30D160	Spent Sulfuric Acid	EQT169	LAC 33:III.2103.B
30D190	Spent Sulfuric Acid	EQT171	LAC 33:III.2103.B
20D120	Spent Sulfuric Acid	EQT176	LAC 33:III.2103.A
40D200	Treatment Services	EQT180	LAC 33:III.2103.B
40D250	Treatment Services	EQT177	LAC 33:III.2103.B
40D280	Treatment Services	EQT178	LAC 33:III.2103.B
40D210	Treatment Services	EQT181	LAC 33:III.2103.A
40D220	Treatment Services	EQT183	LAC 33:III.2103.A
40D290	Treatment Services	EQT179	LAC 33:III.2103.A
40D300	Treatment Services	EQT182	LAC 33:III.2103.A

The tanks in question are used to store spent sulfuric acid and other D001 corrosive materials and are equipped with submerged fill pipes. However, the design specifications for these submerged fill pipes are inconsistent with the definition of submerged fill pipe set forth in LAC 33:III.111, in that the fill pipe openings are greater than six inches from the tank bottoms. Spent sulfuric acid is highly corrosive and the internal specifications of the Rhodia tanks dictate a distance greater than six inches above the tank bottom to allow for diffusion and a reduction in the force of the incoming fluid to protect the integrity of the bottom of the tank. The definition does allow an exception from the six inch requirement, but only if the fill pipe is submerged "during all normal operations (nozzle shall not be uncovered more than twice per year)." However, the Rhodia facility is required for operational reasons to frequently draw down these tanks to below the fill pipe openings to avoid an excessive accumulation of solids. Solid accumulation results in more frequent tank cleanings, which create increased air emissions and the potential for personnel exposure.

For the twelve tanks listed as subject to LAC 33:III.2103.B, this exception applies only to the "submerged fill pipe" provision of Section 2103.B. Rhodia has equipped

these tanks with vapor loss control devices in accordance with the other requirements of Section 2103.B and their air permit, and shall continue to operate and maintain the control devices. The basis and rationale for this Rule are to provide tanks storing corrosive materials with an exemption from the "submerged fill pipe" provisions of LAC 33:III.2103.A and B. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

A. - F. ...

G. Exemptions. The provisions of this Section (e.g., LAC 33:III.2103) do not apply to:

1. - 4. ...

5. with regard to the requirements of Paragraph C.1 of this Section, any storage tank that is used for less than two weeks in the calendar year, provided that the tank is empty and liquid-free when not in use;

6. with regard to the submerged fill pipe provisions of Subsection A of this Section, tanks, drums, or other containers storing pyrophoric catalyst at the Vistalon Production Facility of ExxonMobil Chemical Company's Baton Rouge Chemical Plant; and

7. with regard to the submerged fill pipe provisions of Subsections A and B of this Section, tanks, drums, or other containers used for the storage of corrosive materials, including but not limited to spent sulfuric acid and hazardous waste, at the Baton Rouge facility of Rhodia Inc.

H. - J. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 15:1065 (December 1989), repromulgated LR 16:27 (January 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999), LR 25:852 (May 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2452 (November 2000), LR 28:1763 (August 2002), LR 30:1671 (August 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2439 (October 2005), LR 33:447 (March 2007), LR 33:2085 (October 2007), LR 36:2271 (October 2010).

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RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Incorporation by Reference—2009
(LAC 33:I.3931; III.506, 507, 2160, 3003, 5116, 5122,
5311, 5901; V.3099; IX.2301, 4901, 4903; and XV.1599)
(MM014ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Environmental Quality regulations, LAC 33:I.3931; III.506, 507, 2160, 3003, 5116, 5122, 5311 and 5901; V.3099; IX.2301, 4901 and 4903; XV.1599 (Log #MM014ft).

This Rule is identical to federal regulations found in 10 CFR 71, App. A, 1/1/10; 40 CFR 51, App. M, 60-61, 63, 68, 70, 6(a), 117.3, 136, 266, App. I-IX and XI-XIII, 302.4, 302.6(e), 355.40(a)(2)(vii), 401 and 405-471, 7/1/09; and subsequent revisions to 40 CFR 60 and 63 in the *Federal Register* (see rule text), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No Fiscal or Economic Impact will result from the Rule. This Rule was promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference (IBR) into LAC 33:I, III, V, IX and XV the corresponding federal reportable quantity list of hazardous substances in 40 CFR 117.3 and 302.4, July 1, 2009; administrative reporting exemptions for certain air releases of Nox in 40 CFR 302.6(e) and 355.40(a)(2)(vii), July 1, 2009; Capture Efficiency Test Procedures in 40 CFR Part 51, Appendix M, July 1, 2009; Federal So2 Model Rule in 40 CFR Part 96, July 1, 2009; Standards of Performance for New Stationary Sources in 40 CFR Part 60, July 1, 2009; National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 CFR Part 61, July 1, 2009; NESHAP for Source Categories in 40 CFR Part 63, July 1, 2009; Chemical Accident Prevention and Minimization of Consequences in 40 CFR Part 68, July 1, 2009; Part 70 Operating Permits Program in 40 CFR 70.6(a), July 1, 2009; hazardous waste regulations in 40 CFR Part 266, Appendices I-IX and XI-XIII, July 1, 2009; National Pollutant Discharge Elimination System regulations in 40 CFR Parts 136, 401, 405-471, July 1, 2009; and radiation regulations in 10 CFR Part 71, Appendix A, January 1, 2010. Also incorporated are subsequent revisions to 40 CFR Part 60 and 63 promulgated in the *Federal Register*.

In order for Louisiana to maintain equivalency with federal regulations, the most current Code of Federal Regulations must be adopted in the LAC. This rulemaking is necessary to maintain delegation, authorization, etc., granted to Louisiana by EPA. This incorporation by reference package was proposed to keep Louisiana's regulations current with their federal counterparts.

The basis and rationale for this Rule are to mirror the federal regulations in order to maintain equivalency. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 2. Notification

Chapter 39. Notification Regulations and Procedures for Unauthorized Discharges

Subchapter E. Reportable Quantities for Notification of Unauthorized Discharges

§3931. Reportable Quantity List for Pollutants

A. Incorporation by Reference of Federal Regulations

1. Except as provided in Subsection B of this Section, the following federal reportable quantity lists are incorporated by reference:

a. 40 CFR 117.3, July 1, 2009, Table 117.3—Reportable Quantities of Hazardous Substances Designated Pursuant to Section 311 of the Clean Water Act; and

b. 40 CFR 302.4, July 1, 2009, Table 302.4—List of Hazardous Substances and Reportable Quantities.

2. Notification Requirements. The following administrative reporting exemptions are hereby incorporated by reference:

a. 40 CFR 302.6(e), July 1, 2009—Notification Requirements; and

b. 40 CFR 355.40(a)(2)(vii), July 1, 2009—Emergency Release Notification.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2025(J), 2060(H), 2076(D), 2183(I), 2194(C), 2204(A), and 2373(B).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 11:770 (August 1985), amended LR 19:1022 (August 1993), LR 20:183 (February 1994), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 21:944 (September 1995), LR 22:341 (May 1996), amended by the Office of the Secretary, LR 24:1288 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:751 (April 2004), LR 30:1669 (August 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 32:2248 (December 2006), LR 33:640 (April 2007), LR 33:2628 (December 2007), LR 34:69 (January 2008), LR 34:866 (May 2008), repromulgated LR 34:981 (June 2008), amended LR 35:1106 (June 2009), LR 36:2272 (October 2010).

Part III. Air

Chapter 5. Permit Procedures

§506. Clean Air Interstate Rule Requirements

A. - B. ...

C. Annual Sulfur Dioxide. Except as specified in this Section, The Federal SO₂ Model Rule, published in the *Code of Federal Regulation* at 40 CFR Part 96, July 1, 2009, is hereby incorporated by reference, except for Subpart III—CAIR SO₂ OPT-In Units and all references to opt-in units.

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006), amended LR 33:1622 (August 2007), LR 33:2083 (October 2007), LR 34:978 (June 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010).

§507. Part 70 Operating Permits Program

A. - B.1. ...

2. No Part 70 source may operate after the time that the owner or operator of such source is required to submit a permit application under Subsection C of this Section, unless an application has been submitted by the submittal deadline and such application provides information addressing all applicable sections of the application form and has been certified as complete in accordance with LAC 33:III.517.B.1. No Part 70 source may operate after the deadline provided for supplying additional information requested by the permitting authority under LAC 33:III.519, unless such additional information has been submitted within the time specified by the permitting authority. Permits issued to the Part 70 source under this Section shall include the elements required by 40 CFR 70.6. The department hereby adopts and incorporates by reference the provisions of 40 CFR 70.6(a), July 1, 2009. Upon issuance of the permit, the Part 70 source shall be operated in compliance with all terms and conditions of the permit. Noncompliance with any federally applicable term or condition of the permit shall constitute a violation of the Clean Air Act and shall be grounds for enforcement action; for permit termination, revocation and reissuance, or revision; or for denial of a permit renewal application.

C. - J.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011, 2023, 2024, and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 20:1375 (December 1994), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 29:698 (May 2003), LR 30:1008 (May 2004), amended by the Office of Environmental Assessment, LR 31:1061 (May 2005), LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 32:808 (May 2006), LR 33:1619 (August 2007), LR 33:2083 (October 2007), LR 33:2630 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010).

Chapter 21. Control of Emission of Organic Compounds

Subchapter N. Method 43—Capture Efficiency Test Procedures

[*Editor's Note:* This Subchapter was moved and renumbered from Chapter 61 (December 1996).]

§2160. Procedures

A. Except as provided in Subsection C of this Section, the regulations at 40 CFR Part 51, Appendix M, July 1, 2009, are hereby incorporated by reference.

B. - C.2.b.iv. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:653 (July 1991), amended LR 22:1212 (December 1996), LR 23:1680 (December 1997), LR 24:1286 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:1224 (August 2001), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2272 (October 2010).

Chapter 30. Standards of Performance for New Stationary Sources (NSPS)

Subchapter A. Incorporation by Reference

§3003. Incorporation by Reference of 40 Code of Federal Regulations (CFR) Part 60

A. Except for 40 CFR Part 60, Subpart AAA, and as modified in this Section, Standards of Performance for New Stationary Sources, published in the *Code of Federal Regulations* at 40 CFR Part 60, July 1, 2009, are hereby incorporated by reference as they apply to the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 60: amendments to Subpart Ce and Ec as promulgated on October 6, 2009, in the *Federal Register*, 74 FR 51368-51415; and amendments to Subparts A and Y as promulgated on October 8, 2009, in the *Federal Register*, 74 FR 51950-51985.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 22:1212 (December 1996), amended LR 23:1681 (December 1997), LR 24:1287 (July 1998), LR 24:2238 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1239 (July 1999), LR 25:1797 (October 1999), LR 26:1607 (August 2000), LR 26:2460, 2608 (November 2000), LR 27:2229 (December 2001), LR 28:994 (May 2002), LR 28:2179 (October 2002), LR 29:316 (March 2003), LR 29:698 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1568 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2446 (October 2005), LR 32:809 (May 2006), LR 32:1596 (September 2006), LR 33:1620 (August 2007), LR 33:2092 (October 2007), LR 33:2626 (December 2007), LR 34:1391 (July 2008), LR 35:1107 (June 2009), LR 36:2273 (October 2010).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

Subchapter B. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

§5116. Incorporation by Reference of 40 CFR Part 61 (National Emission Standards for Hazardous Air Pollutants)

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants, published in the *Code of Federal Regulations* at 40 CFR Part 61, July 1, 2009, and specifically listed in the following table, are hereby incorporated by reference as they apply to sources in the state of Louisiana.

40 CFR Part 61	Subpart/Appendix Heading

[See Prior Text in Subpart A – Appendix C]	

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1658 (December 1997), LR 24:1278 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1797 (October 1999), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2179 (October 2002), LR 29:699 (May 2003), LR 30:1009 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2448 (October 2005), LR 32:809 (May 2006), LR 33:1620 (August 2007), LR 33:2094 (October 2007), LR 34:1391 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010).

Subchapter C. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

§5122. Incorporation by Reference of 40 CFR Part 63 (National Emission Standards for Hazardous Air Pollutants for Source Categories) as It Applies to Major Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2009, are hereby incorporated by reference as they apply to major sources in the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 63, applicable to major sources: amendments to Subpart A and CC as promulgated on October 28, 2009, in the *Federal Register*, 74 FR 55670-55691, and amendments to Subpart ZZZZ as promulgated on March 3, 2010, in the *Federal Register*, 75 FR 9648-9690.

B. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:61 (January 1997), amended LR 23:1659 (December 1997), LR 24:1278 (July 1998), LR 24:2240 (December 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 25:1798 (October 1999), LR 26:690 (April 2000), LR 26:2271 (October 2000), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 29:1474 (August 2003), LR 30:1010 (May 2004), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 31:3115 (December 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2095 (October 2007), LR 33:2677 (December 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2273 (October 2010).

Chapter 53. Area Sources of Toxic Air Pollutants
Subchapter B. Incorporation by Reference of 40 CFR
Part 63 (National Emission Standards for
Hazardous Air Pollutants for Source
Categories) as It Applies to Area Sources

§5311. Incorporation by Reference of 40 CFR Part 63
(National Emission Standards for Hazardous Air
Pollutants for Source Categories) as It Applies to
Area Sources

A. Except as modified in this Section and specified below, National Emission Standards for Hazardous Air Pollutants for Source Categories, published in the *Code of Federal Regulations* at 40 CFR Part 63, July 1, 2009, are hereby incorporated by reference as they apply to area sources in the state of Louisiana. Also incorporated by reference are the following revisions to 40 CFR Part 63, applicable to area sources: technical correction to Subpart ZZZZZZ as promulgated on September 10, 2009, in the *Federal Register*, 74 FR 46493-46495; Subpart VVVVVV as promulgated on October 29, 2009, in the *Federal Register*, 74 FR 56008-56056; Subpart AAAAAA as promulgated on December 2, 2009, in the *Federal Register*, 74 FR 63236-63266; Subpart CCCCCC as promulgated on December 3, 2009, in the *Federal Register*, 74 FR 63504-63530; Subpart BBBB as promulgated on December 30, 2009, in the *Federal Register*, 74 FR 69194-69217; Subpart DDDDDD as promulgated on January 5, 2010, in the *Federal Register*, 75 FR 522-551; technical amendment to Subpart CCCCCC as promulgated on March 5, 2010, in the *Federal Register*, 75 FR 10184-10186; and technical correction to Subpart AAAAAA as promulgated on March 18, 2010, in the *Federal Register*, 75 FR 12988-12989.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:63 (January 1997), amended LR 23:1660 (December 1997), LR 24:1279 (July 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1464 (August 1999), LR 27:2230 (December 2001), LR 28:995 (May 2002), LR 28:2180 (October 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 31:1569 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2451 (October 2005), LR 32:810 (May 2006), LR 33:1620 (August 2007), LR 33:2096 (October 2007), LR 34:1392 (July 2008), LR 35:1108 (June 2009), LR 36:2274 (October 2010).

Chapter 59. Chemical Accident Prevention and
Minimization of Consequences

Subchapter A. General Provisions

§5901. Incorporation by Reference of Federal
Regulations

A. Except as provided in Subsection C of this Section, the department incorporates by reference 40 CFR Part 68, July 1, 2009.

B. - C.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054 and 30:2063.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:421 (April 1994), amended LR 22:1124 (November 1996), repromulgated LR 22:1212 (December 1996), amended LR 24:652 (April 1998), LR 25:425

(March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:70 (January 2000), LR 26:2272 (October 2000), LR 28:463 (March 2002), LR 29:699 (May 2003), LR 30:1010 (May 2004), amended by the Office of Environmental Assessment, LR 30:2463 (November 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:810 (May 2006), LR 33:1621 (August 2007), LR 34:1392 (July 2008), LR 35:1109 (June 2009), LR 36:2274 (October 2010).

Part V. Hazardous Waste and Hazardous Materials
Subpart 1. Department of Environmental Quality—
Hazardous Waste

§1108. Manifest Tracking Numbers, Manifest Printing,
and Obtaining Manifests

A. 40 CFR 262.21 and the associated appendix, July 1, 2009, are hereby incorporated by reference. 40 CFR 262.21 establishes standards and procedures for registrants who apply early to, and obtain approval from, the Director, Office of Solid Waste, US EPA, to print and distribute hazardous waste manifest forms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq. HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 18:1256 (November 1992), amended by the Office of the Secretary, Legal Affairs Division, LR 32:823 (May 2006), LR 36:2274 (October 2010).

Chapter 30. Hazardous Waste Burned in Boilers and
Industrial Furnaces

§3099. Appendices—Appendix A, B, C, D, E, F, G, H, I,
J, K, and L

Appendix A. Tier I and Tier II Feed Rate and Emissions
Screening Limits For Metals

A. 40 CFR 266, Appendix I, July 1, 2009, is hereby incorporated by reference.

Appendix B. Tier I Feed Rate Screening Limits for Total
Chlorine

A. 40 CFR 266, Appendix II, July 1, 2009, is hereby incorporated by reference.

Appendix C. Tier II Emission Rate Screening Limits for
Free Chlorine and Hydrogen Chloride

A. 40 CFR 266, Appendix III, July 1, 2009, is hereby incorporated by reference.

Appendix D. Reference Air Concentrations

A. 40 CFR 266, Appendix IV, July 1, 2009, is hereby incorporated by reference, except that in regulations incorporated thereby, references to 40 CFR 261, Appendix VIII and 266, Appendix V shall mean LAC 33:V.3105, Table 1 and LAC 33:V.3099, Appendix E, respectively.

Appendix E. Risk-Specific Doses (10⁻⁵)

A. 40 CFR 266, Appendix V, July 1, 2009, is hereby incorporated by reference.

Appendix F. Stack Plume Rise [Estimated Plume Rise
(in Meters) Based on Stack Exit Flow Rate and Gas
Temperature]

A. 40 CFR 266, Appendix VI, July 1, 2009, is hereby incorporated by reference.

Appendix G. Health-Based Limits for Exclusion of
Waste-Derived Residues

A. 40 CFR 266, Appendix VII, July 1, 2009, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII, 266.112(b)(1) and (b)(2)(i), and 268.43 shall mean LAC

33:V.3105, Table 1, 3025.B.1 and B.2.a, and LAC 33:V.2299.Appendix, Table 2, respectively.

Appendix H. Organic Compounds for Which Residues Must Be Analyzed

A. 40 CFR 266, Appendix VIII, July 1, 2009, is hereby incorporated by reference.

Appendix I. Methods Manual for Compliance with the BIF Regulations

A. 40 CFR 266, Appendix IX, July 1, 2009, is hereby incorporated by reference, except as follows.

A.1. - B. ...

Appendix J. Lead-Bearing Materials That May Be Processed in Exempt Lead Smelters

A. 40 CFR 266, Appendix XI, July 1, 2009, is hereby incorporated by reference.

Appendix K. Nickel or Chromium-Bearing Materials That May Be Processed in Exempt Nickel-Chromium Recovery Furnaces

A. 40 CFR 266, Appendix XII, July 1, 2009, is hereby incorporated by reference, except that the footnote should be deleted.

Appendix L. Mercury-Bearing Wastes That May Be Processed in Exempt Mercury Recovery Units

A. 40 CFR 266, Appendix XIII, July 1, 2009, is hereby incorporated by reference, except that in regulations incorporated thereby, 40 CFR 261, Appendix VIII shall mean LAC 33:V.3105, Table 1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 22:827 (September 1996), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 27:300 (March 2001), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 30:751 (April 2004), amended by the Office of Environmental Assessment, LR 31:919 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:603 (April 2006), LR 33:640 (April 2007), LR 34:866 (May 2008), LR 35:1107 (June 2009), LR 36:2274 (October 2010).

Part IX. Water Quality

Subpart 2. The Louisiana Pollutant Discharge Elimination System (LPDES) Program

Chapter 23. Definitions and General LPDES Program Requirements

§2301. General Conditions

A. - E. ...

F. All references to the *Code of Federal Regulations* (CFR) contained in this Chapter shall refer to those regulations published in the July 1, 2009 CFR, unless otherwise noted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:199 (February 1997), LR 23:722 (June 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:230 (February 2004), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007),

LR 33:2365 (November 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010).

Chapter 49. Incorporation by Reference

§4901. 40 CFR Part 136

A. 40 CFR Part 136, Guidelines Establishing Test Procedures for the Analysis of Pollutants, July 1, 2009, in its entirety, is hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2231 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010).

§4903. 40 CFR, Chapter I, Subchapter N

A. 40 CFR Chapter I, Subchapter N, Effluent Guidelines and Standards, Parts 401 and 405-471, July 1, 2009, are hereby incorporated by reference.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:958 (August 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:1467 (August 1999), LR 26:1609 (August 2000), LR 27:2232 (December 2001), LR 28:996 (May 2002), LR 29:700 (May 2003), LR 29:1467 (August 2003), repromulgated LR 30:232 (February 2004), amended LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division LR 32:604 (April 2006), LR 32:819 (May 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 35:654 (April 2009), LR 35:1110 (June 2009), LR 36:2275 (October 2010).

Part XV. Radiation Protection

Chapter 15. Transportation of Radioactive Material

§1599. Appendix—Incorporation by Reference of 10 CFR Part 71, Appendix A, Tables A-1, A-2, A-3, and A-4; Procedures for Determining A₁ and A₂ [Formerly §1517]

A. Tables A-1, A-2, A-3, and A-4 in 10 CFR Part 71, Appendix A, January 1, 2009, are hereby incorporated by reference. These tables are used to determine the values of A₁ and A₂, as described in Subsections B-F of this Section.

B. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2104 and 2113.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Environmental Assessment, Environmental Planning Division, LR 26:1270 (June 2000), amended LR 27:2233 (December 2001), LR 28:997 (May 2002), LR 29:701 (May 2003), LR 30:752 (April 2004), amended by the Office of Environmental Assessment, LR 31:920 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:604 (April 2006), LR 33:641 (April 2007), LR 34:867 (May 2008), LR 34:2114 (October 2008), LR 35:1110 (June 2009), LR 36:2275 (October 2010).

Herman Robinson, CPM
Executive Counsel

1010#012

RULE

**Department of Environmental Quality
Office of the Secretary
Legal Affairs Division**

Revision of the Drinking Water Source Use
(LAC 33:IX.Chapter 11)(WQ080)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX, Chapter 11 (WQ080).

LDEQ revised the designation of the drinking water supply use in nine subsegments based on the evaluation of the existing use of drinking water supply in those subsegments. Descriptions of two subsegments have been revised to accurately reflect the waters that have an existing use of drinking water supply.

After a review of LDEQ's water quality standards and of information received from the Louisiana Department of Health and Hospitals, it was determined that the water quality standards needed to be revised to accurately reflect the waters that have an existing use of drinking water supply and to be in compliance with federal regulations (40 CFR 131.10). The basis and rationale for this Rule are to appropriately protect the waters of the state. Federal regulations (40 CFR 131.10 (a)) require that each state must specify appropriate water uses to be achieved and protected. LDEQ currently has 44 subsegments designated for the drinking water supply use. Most of these subsegments appropriately protect existing drinking water supplies, but in some of these subsegments, the drinking water supply use is

not an existing use. An existing use is a use actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards (40 CFR 131.3 (e)). Federal regulations (40 CFR 131.10 (g)) allow states to remove a designated use if it is not an existing use. LDEQ is removing the drinking water supply use from nine subsegments in accordance with federal regulations.

Federal regulations (40 CFR 131.10 (i)) state that, where existing water quality standards specify designated uses less than those which are presently being attained, the state shall revise its standards to reflect the uses actually being attained. LDEQ determined that the descriptions of two subsegments needed to be revised to accurately reflect the waters that have an existing use of drinking water supply and to be in compliance with federal regulations (40CFR 131.10(i)). A portion of the Houston River Canal-which has an existing use of drinking water supply-was in a subsegment that was not designated as a drinking water supply. LDEQ revised the description of subsegment 030806-554700 to extend drinking water protection to the aforementioned undersigned portion. Because of this revision, the description of an adjacent subsegment (030306 Bayou Verdine) needed to be revised. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

Title 33

ENVIRONMENTAL QUALITY

Part IX. Water Quality

Subpart 1. Water Pollution Control

Chapter 11. Surface Water Quality Standards

§1123. Numerical Criteria and Designated Uses

A. - E. ...

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO₄	DO	pH	B A C	°C	TDS
Atchafalaya River Basin (01)									
*** [See Prior Text in 010101. Atchafalaya River Headwaters....]									
010201	Atchafalaya River Mainstem-From Simmesport to Whiskey Bay Pilot Channel at mile 54	A B C	65	70	5.0	6.5-8.5	1	33	440
*** [See Prior Text in 010301. West Atchafalaya Basin... Through 010901. Atchafalaya Bay and Delta....]									
Barataria Basin (02)									
*** [See Prior Text in 020101. Bayou Verret... Through 021102. Barataria Basin Coastal....]									
Calcasieu River Basin (03)									
*** [See Prior Text in 030101. Calcasieu River... Through 030305. Contraband Bayou....]									
030306	Bayou Verdine-south of the Houston River Canal to the Calcasieu River (Estuarine)	A B C	N/A	N/A	4.0	6.0-8.5	1	35	N/A
*** [See Prior Text in 030401. Calcasieu River - From below...Through 030806. Houston River-From Bear....]									
030806-554700	Houston River Canal-From 1 mile west of LA-388 to its terminuses at Mossville and the Houston River	A B C D F	250	75	[3]	6.0-8.5	1	32	500
*** [See Prior Text in 030807. Bear Head Creek...Through 031201. Calcasieu River Basin Coastal....]									
Lake Pontchartrain Basin (04)									
*** [See Prior Text in 040101. Comite River... Through 042209. Lake Pontchartrain Basin Coastal....]									

Table 3. Numerical Criteria and Designated Uses									
A-Primary Contact Recreation; B-Secondary Contact Recreation; C-Fish And Wildlife Propagation; L-Limited Aquatic Life and Wildlife Use; D-Drinking Water Supply; E-Oyster Propagation; F-Agriculture; G-Outstanding Natural Resource Waters									
Code	Stream Description	Designated Uses	Numerical Criteria						
			CL	SO ₄	DO	pH	B A C	°C	TDS
Mermentau River Basin (05)									
*** [See Prior Text in 050101. Bayou Des Cannes... Through 050901. Mermentau River Basin Coastal....]									
Vermillion-Teche River Basin (06)									
*** [See Prior Text in 060101. Spring Creek... Through 060204. Bayou Courtableau....]									
060206	Indian Creek and Indian Creek Reservoir	A B C	10	5	5.0	6.0-8.5	1	32	100
*** [See Prior Text in 060207. Bayou des Glaises... Through 061201. Vermillion-Tech River Basin Coastal....]									
Mississippi River Basin (07)									
*** [See Prior Text in 070101. Mississippi River... Through 070601. Mississippi River Basin Coastal....]									
Ouachita River Basin (08)									
*** [See Prior Text in 080101. Ouachita River... Through 080501. Bayou de L'Outre....]									
080601	Bayou D'Arbonne-From headwaters to Lake Claiborne	A B C	50	15	5.0	6.0-8.5	1	32	200
*** [See Prior Text in 080602. Lake Claiborne... Through 081611. Bayou Funny Louis....]									
Pearl River Basin (09)									
*** [See Prior Text in 090101. Pearl River... Through 090506. Thigpen Creek....]									
Red River Basin (10)									
*** [See Prior Text in 100101. Red River....]									
100201	Red River-From US-165 to Old River Control Structure Outflow Channel	A B C	185	110	5.0	6.0-8.5	1	34	780
*** [See Prior Text in 100202. Little River... Through 100402. Red Chute Bayou....]									
100403	Cypress Bayou-From headwaters to Cypress Bayou Reservoir	A B C F	100	25	5.0	6.0-8.5	1	32	300
*** [See Prior Text in 100404. Cypress Bayou Reservoir....]									
100405	Black Bayou-From headwaters to spillway at Black Bayou Reservoir; includes Black Bayou Reservoir	A B C F	100	25	5.0	6.0-8.5	1	32	300
*** [See Prior Text in 100406. Flat River... Through 101001. Sibley Lake....]									
101101	Cane River-From above Natchitoches to Red River	A B C F	25	25	5.0	6.0-8.5	1	32	100
*** [See Prior Text in 101102. Kisatchie Bayou... Through 101607. Bayou Cocodrie....]									
Sabine River Basin (11)									
*** [See Prior Text in 110101. Toledo Bend Reservoir....]									
110201	Sabine River-From Toledo Bend Dam to Old River below Sabine Island WMA	A B C	120	60	5.0	6.0-8.5	1	33	500
110202	Pearl Creek-From headwaters to Sabine River (Scenic)	A B C G	120	60	5.0	6.0-8.5	1	33	500
*** [See Prior Text in 110301. Sabine River... Through 110701. Sabine River Basin Coastal....]									
Terrebonne Basin (12)									
*** [See Prior Text in 120102. Bayou Poydras... Through 120806. Terrebonne Basin Coastal....]									

ENDNOTES:

[1] - [24]. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1130 (November 1996), LR 24:1926 (October 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 25:2405 (December 1999), LR 27:289 (March 2001), LR 28:462 (March 2002), LR 28:1762

(August 2002), LR 29:1814, 1817 (September 2003), LR 30:1474 (July 2004), amended by the Office of Environmental Assessment, LR 30:2468 (November 2004), LR 31:918, 921 (April 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:815, 816, 817 (May 2006), LR 33:832 (May 2007), LR 34:1901 (September 2008), LR 35:446 (March 2009), repromulgated LR 35:655 (April 2009), amended LR 36:2276 (October 2010).

Herman Robinson, CPM
Executive Counsel

1010#013

RULE
Office of the Governor
Crime Victims Reparations Board

Compensation to Victims (LAC 22:XIII.301)

In accordance with the provisions of R.S. 49:950 et seq., which is the Administrative Procedure Act, and R.S. 46:1801 et seq., which is the Crime Victims Reparations Act, the Crime Victims Reparations Board hereby promulgates rules and regulations regarding the awarding of compensation to applicants.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW
ENFORCEMENT

Part XIII. Crime Victims Reparations Board
Chapter 3. Eligibility and Application Process

§301. Eligibility

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

1. Contribution

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

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

1.a.ii. - 3.g. ...

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

HISTORICAL NOTE: Promulgated by the Office of the Governor, Crime Victims Reparations Board, LR 20:539 (May 1994), amended LR 22:710 (August 1996), LR 31:2009 (August 2005), LR 35:65 (January 2009), LR 36:2278 (October 2010).

Lamarr Davis
Chairman

1010#050

RULE
Department of Health and Hospitals
Board of Nursing

Definition of Term—Other Causes
(LAC 46:XLVII.3405)

The Louisiana State Board of Nursing has amended LAC 46:XLVII.3405, Definition of Terms, *Other Causes*, in accordance with R.S. 37:918, R.S. 37:919, and R.S. 37:920 and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The amendment to LAC 46:XLVII.3405 revises the current Rule to align with SB No. 282 which became Act 274 of the 2007 Legislature reporting of impaired professionals. This proposal provides a mechanism to further clarify the complaint process.

Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS
Part XLVII. Nurses: Practical Nurses and Registered
Nurses

Subpart 2. Registered Nurses

§3405. Definition of Terms

A. ...

* * *

Other Causes—includes, but is not limited to:

a. - m. ...

n. failing to report, through the proper channels, facts known regarding the incompetent, unethical, illegal practice or suspected impairment due to/from controlled or mood altering drugs; alcohol; or a mental or physical condition of any healthcare provider.

o. - x. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:918(K), R.S. 37:921, and R.S. 37:1744-1747.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Board of Nursing, LR 7:74 (March 1981), amended by the Department of Health and Hospitals, Board of Nursing, LR 19:1145 (September 1993), LR 21:271 (March 1995), LR 24:1293 (July 1998), LR 31:1585 (July 2005), LR 35:1535 (August 2009), LR 36:2278 (October 2010).

Barbara L. Morvant, MN, RN
Executive Director

1010#014

RULE
Department of Health and Hospitals
Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XI.7503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XI. Clinic Services
Subpart 11. Ambulatory Surgical Centers

Chapter 75. Reimbursement
§7503. Reimbursement Methodology

A. - C. ...

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 35:1889 (September 2009), amended LR 36:2278 (October 2010).

Bruce D. Greenstein
Secretary

1010#041

RULE

Department of Health and Hospitals Bureau of Health Services Financing

CommunityCARE Program
Immunization Pay-for-Performance Initiative
Payment Levels (LAC 50:I.2915)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:I.2915 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 3. Coordinated System of Care

Chapter 29. CommunityCARE

§2915. Immunization Pay-for-Performance

A. - C.3. ...

D. Effective February 1, 2010, supplemental payments shall be available to physicians when 50-74 percent of the recipients are up-to-date with the appropriate vaccine series by 24 months of age. The payment shall be \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP.

E. Effective April 1, 2010, supplemental payments shall be available to physicians when 60-74 percent of the recipients are up-to-date with the appropriate vaccine series by 24 months of age. The payment shall be \$0.25 per Medicaid recipient under the age of 21 linked to the CommunityCARE PCP.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 33:1139 (June 2007), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2279 (October 2010).

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

Brude D. Greenstein
Secretary

1010#036

RULE

Department of Health and Hospitals Bureau of Health Services Financing

Facility Need Review Exception Criteria for Downsizing
Enrolled Beds (LAC 48:I.12507)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 48:I.12507 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 48

PUBLIC HEALTH—GENERAL

Part 1. General Administration

Subpart 5. Health Planning

Chapter 125. Facility Need Review

Subchapter B. Determination of Bed, Unit, Facility or Agency Need

§12507. Intermediate Care Facilities for Persons with Developmental Disabilities

A. - N.2. ...

3. When the department intends to downsize the enrolled bed capacity of a state-owned facility with 16 or more beds in order to develop one or more group or community homes, and the approved beds will be owned by the state, a cooperative endeavor agreement (CEA) will be issued.

a. The CEA will be issued and beds shall be made available in accordance with the methods described in this Section;

N.4. - O.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2116.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 21:806 (August 1995), amended LR 25:1250 (July 1999), amended LR 28:2190 (October 2002), LR 30:1023 (May 2004), amended LR 32:845 (May 2006), amended LR 34:2613 (December 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2279 (October 2010).

Bruce D. Greenstein
Secretary

1010#037

RULE

Department of Health and Hospitals Bureau of Health Services Financing

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XXII.2701 in the Medical Assistance Program as authorized by R.S.

6:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXII. 1115 Demonstration Waivers

Subpart 3. Family Planning Waiver

Chapter 27. Reimbursement

§2701. Reimbursement Methodology

A. ...

B. Effective for dates of service on or after January 22, 2010, the reimbursement rates for services provided in the Family Planning waiver shall be reduced by 5 percent of the rates in effect on January 21, 2010.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 32:1461 (August 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2280 (October 2010).

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

Bruce D. Greenstein
Secretary

1010#038

RULE

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

**Federally Qualified Health Centers
Service Limit Reduction (LAC 50:XI.10503)**

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XI.10503 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act and as directed by Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XI. Clinic Services

Subpart 13. Federally Qualified Health Centers

Chapter 105. Services

§10503. Service Limits

A. Federally qualified health center visits (encounters) are limited to 12 visits per year for medically necessary services rendered to Medicaid recipients who are 21 years of age or older. Visits for Medicaid recipients who are under 21 years of age and for prenatal and postpartum care are excluded from the service limitation.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health

Services Financing, LR 32:1902 (October 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2280 (October 2010).

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

Bruce D. Greenstein
Secretary

1010#030

RULE

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

and

Office for Citizens with Developmental Disabilities

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

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities has amend LAC 50:XXI.12101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

Title 50

**PUBLIC HEALTH—MEDICAL ASSISTANCE
Part XXI. Home and Community-Based Services**

Waivers

Subpart 9. Children's Choice

Chapter 121. Reimbursement

§12101. Reimbursement Methodology

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:1987 (September 2002), LR 33:1872 (September 2007), amended by the Department of Health and Hospitals, Office for Citizens with Developmental Disabilities, LR 34:250 (February 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:324 (February 2010), amended LR 36:2280 (October 2010).

Bruce D. Greenstein
Secretary

1010#031

RULE

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

Office for Citizens with Developmental Disabilities

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

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities has amended LAC 50:XXI.6101 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R. S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XXI. Home and Community Based

Services Waivers

Subpart 5. Supports Waiver

Chapter 61. Reimbursement Methodology

§6101. Reimbursement Methodology

A. - J. ...

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Office for Citizens with Developmental Disabilities, LR 32:1607 (September 2006), amended LR 34:662 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office for Citizens with Developmental Disabilities, LR 36:2281 (October 2010).

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

Bruce D. Greenstein
Secretary

1010#032

RULE

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:XIII.701 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part XIII. Home Health

Subpart 1. Home Health Services

Chapter 7. Reimbursement Methodology

§701. Nursing and Home Health Aide Services

A. - A.4. ...

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

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

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

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 34:654 (April 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2281 (October 2010).

Bruce D. Greenstein
Secretary

1010#033

RULE

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

Professional Services Program
Anesthesia Services
Reimbursement Methodology
(LAC 50:IX.15133)

The Department of Health and Hospitals, Bureau of Health Services Financing has amended LAC 50:IX.15133 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter D. Anesthesia Services

§15133. Formula-Based Reimbursement

A. ...

B. Effective for dates of service on or after January 22, 2010, the reimbursement for formula-based anesthesia services rendered by a physician shall be:

1. 75 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients ages 16 and older; and

2. 90 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients under the age of 16.

C. Effective for dates of service on or after January 22, 2010, the reimbursement for formula-based anesthesia services rendered by a CRNA shall be:

1. 75 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients ages 16 and older; and

2. 90 percent of the 2009 Louisiana Medicare Region 99 allowable for services rendered to Medicaid recipients under the age of 16.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:2282 (October 2010).

Bruce D. Greenstein
Secretary

1010#034

RULE

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

Professional Services Program
Physician Services
Reimbursement Rate Reduction
(LAC 50:IX.15111-15113)

The Department of Health and Hospitals, Bureau of Health Services Financing has adopted §§15111-15113 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part IX. Professional Services Program

Subpart 15. Reimbursement

Chapter 151. Reimbursement Methodology

Subchapter B. Physician Services

§15111. General Provisions (Reserved)

§15113. Reimbursement

A. - D.3.b. ...

E. Effective for dates of service on or after January 22, 2010, physician services rendered to recipients 16 years of age or older shall be reduced to 75 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

1. The following physician services rendered to recipients 16 years of age or older shall be reimbursed at 80 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount:

- a. prenatal evaluation and management services;
- b. preventive medicine evaluation and management services; and
- c. obstetrical delivery services.

F. Effective for dates of service on or after January 22, 2010, all physician services rendered to recipients under the age of 16 shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Region 99 allowable or billed charges, whichever is the lesser amount.

G. Effective for dates of service on or after January 22, 2010, all physician-administered drugs shall be reimbursed at 90 percent of the 2009 Louisiana Medicare Average Sales Price (ASP) allowable or billed charges, whichever is the lesser amount.

H. Effective for dates of service on or after January 22, 2010, all physician services that are currently reimbursed below the reimbursement rates in §15113.E-G shall be increased to the rates in §15113.E-G

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 36:1252 (June 2010), amended LR 36:2282 (October 2010).

Bruce D. Greenstein
Secretary

1010#035

RULE

Department of Health and Hospitals Office of Public Health

Food Processing Plans, Food Recall Plans and Positive Test Result Reporting (LAC 51:VI.101, 125, 127, and 129)

Under the authority of R.S. 40:4 and 40:5, and in accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the state health officer, acting through the Department of Health and Hospitals, Office of Public Health (DHH-OPH), amends Part VI (Manufacturing, Processing, Packing, and Holding of Food, Drugs, and Cosmetics) of the Louisiana State Sanitary Code (LAC 51). This Rule implements the requirements of Act 341 of the 2009 Regular Session. The major impetus behind this Rule is to require food processing plants to maintain written food processing plans and food recall plans and to mandate notification of the department if laboratory testing reveals contamination of manufactured foods or finished ingredients.

Title 51

PUBLIC HEALTH—SANITARY CODE

Part VI. Manufacturing, Processing, Packing, and Holding of Food, Drugs, and Cosmetics

Chapter 1. General Regulations, Definitions, Permits, Registration, Machinery, Equipment and Utensils, Premises and Buildings, Temperature Control

§101. Definitions [formerly paragraph 6:001]

A. Unless otherwise specifically provided herein, the following words and terms used in this Chapter of the sanitary code, and all other Chapters which are adopted or may be adopted, are defined for the purposes thereof as follows.

* * *

CCP—see *Critical Control Point*.

Confirmed Positive Test Result—any result obtained from a laboratory test of an ingredient, equipment, container, or finished product that indicates the presence of an adulterant, as defined by R.S. 40:607 et seq., in excess of any tolerance specified in state or federal law or regulations.

Control—to manage the conditions of an operation to maintain compliance with established criteria, *control* also means that correct procedures are being followed and criteria are being met.

Control Measure—any action or activity that can be used to prevent, eliminate, or reduce a significant *hazard* that is managed as a *critical control point*.

Control Point—any step at which biological, chemical or physical factors can be controlled.

Corrective Action—procedures followed when a *deviation* occurs.

* * *

Critical Control Point (CCP)—a step at which *control* can be applied and is essential to prevent or eliminate a *food*, *drug*, or *cosmetic safety hazard* or reduce it to an acceptable level.

Critical Limit—the value(s) to which a biological, chemical or physical parameter must be controlled at a *CCP* to prevent, eliminate or reduce to an acceptable level the occurrence of a *food*, *drug*, or *cosmetic safety hazard*.

Deviation—a failure to meet a *critical limit*.

* * *

Food Processing Plant—a commercial operation that manufactures *food* for human consumption and does not provide *food* directly to a consumer from that location. Such term shall not include a commercial operation that produces raw agricultural commodities and whose end product remains a raw agricultural product.

GMP—see *good manufacturing practices*.

Good Manufacturing Practices—practices, methods, and controls used in the manufacturing, processing, packing or holding of *foods*, *drugs* or *cosmetics* that comply with the requirements in this Part and for *foods*, with 21 CFR 110.10, 110.19, 110.20, 110.35, 110.37, 110.40, 110.80, and 110.93, to assure that *foods*, *drugs* or *cosmetics* for human consumption or use are safe and have been prepared, packed and held under sanitary conditions.

HACCP—see *hazard analysis critical control point*.

HACCP Plan—the written document which is based upon the principles of *HACCP* and which delineates the procedures to be followed.

HACCP System—the implemented *HACCP plan* and *pre-requisite programs* including any other applicable requirements.

Hazard—a biological, chemical, radiological or physical agent that is reasonably likely to cause illness or injury in the absence of its *control*.

Hazard Analysis Critical Control Point (HAACP)—a systematic approach to the identification, evaluation and control of significant *food*, *drug*, or *cosmetic safety hazards*.

* * *

Monitor—to conduct a planned sequence of observations or measurements to assess whether a *CCP* is under control or to assess the conditions and practices of all required *Pre-Requisite Programs (PPs)* and to produce an accurate record for future use in *verification*.

* * *

PP—see *Pre-Requisite Program*.

Pre-Requisite Program (PP)—procedures, including *good manufacturing practices*, that address operational conditions providing the foundation for the *HACCP system*.

* * *

State Health Officer—the legally appointed or acting State Health Officer of the Department of Health and Hospitals having jurisdiction over the entire state of Louisiana, and includes his/her duly authorized representative in accordance with R.S. 40:4 and 40:5.

Validation—the element of *verification* focused on collecting and evaluating scientific and technical information to determine whether the *HACCP plan*, when properly implemented, will effectively control the *hazards*.

Verification—those activities, other than *monitoring*, that determine the validity of the *HACCP plan* and that the system is operating according to the plan.

AUTHORITY NOTE: The first source of authority for promulgation of the sanitary code is in R.S. 36:258(B), with more particular provisions found in Chapters 1 and 4 of Title 40 of the Louisiana Revised Statutes. This Part is promulgated in accordance with R.S. 40:4(A)(1)(a) and R.S. 40:5(2)(3)(5)(8)(15)(17)(19)(21). Also see R.S. 40:601 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 28:1230 (June 2002), amended LR 36:2283 (October 2010).

§125. Food Processing Plan

A. This Section shall become effective on January 1, 2011.

B. All food processing plants operating within the state of Louisiana shall maintain on-site a written food processing plan that shall be available for review upon request by the State Health Officer.

C. The food processing plan shall include, at a minimum, the following information:

1. a list of processing steps used to manufacture products, including potential biological, chemical, radiological or physical hazards that may be inherent to or introduced to the product at each step;
2. a description of preventative controls used in each step to control listed hazards;
3. a description of monitoring methods used to verify efficacy of preventative controls;
4. records of any corrective actions taken as a result of such monitoring; and
5. records of any amendments to the plan as a result of corrective actions.

D. Any food processing plant that currently holds and maintains a HACCP plan meeting the requirements of United States Department of Agriculture or Food and Drug Administration regulations shall be considered to be in compliance with this Section.

E. Any person or firm operating a food processing plant that violates the provisions of this Section shall be subject to a civil fine of not more than \$500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1)(a), R.S. 40:5(2)(3)(5)(8)(15)(17)(19)(21) and R.S. 40:652.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 36:2284 (October 2010).

§127. Food Recall Plan

A. This Section shall become effective on January 1, 2011.

B. General. All food processing plants operating within the state of Louisiana shall maintain a written food recall plan that shall be available for review upon request by the state health officer. The owners and operators shall amend their written food recall plan with any recommendations deemed necessary by the state health officer to make such plan effective for food safety concerns.

C. Notification. The food recall plan shall include, at a minimum, the provision for notification of representatives of the Food and Drug Unit of the Office of Public Health of the Department of Health and Hospitals. In addition, for any products subject to recall that may have been involved in interstate commerce, the food recall plan shall have additional provisions to notify the Food and Drug

Administration. Notification shall include, at a minimum, the following information:

1. the identity of the product(s) under recall, including name and lot number or batch code;
2. the reason for the recall;
3. the date and means of discovery of the reason for the recall;
4. total amount of product and amount estimated to be in distribution;
5. list of consignees that have or may have received affected product;
6. contact information for a responsible person at the firm who will oversee the recall; and
7. proposed strategy for conducting the recall.

D. Suppliers and Consignees. The food processing plant shall maintain a current list of suppliers and consignees for all ingredients and finished goods used in the manufacturing or distribution of the firm's products. Such list(s) shall be available for review by the state health officer.

E. Communication with the Public. The food recall plan shall include the proposed mode(s) of public communication including, as necessary, telephone, letter, website, and media outlet (newspaper, television, radio, and/or other sources) notifications.

F. Level(s) of Recall. The food recall plan shall include a method or procedure for evaluating whether the recall needs to be conducted at the wholesale, retail, or consumer levels, or if some combination is appropriate.

G. Effectiveness Checks. The food recall plan shall include provisions for conducting effectiveness checks, at the appropriate level(s) as determined necessary in Subsection F of this Section, by means of telephone interviews, site visits, or other effective means of communication.

H. Post Recall Evaluation. The food recall plan shall require a re-evaluation of all elements of the recall plan after a recall has been conducted to correct deficiencies or enhance overall effectiveness.

I. Nothing in this Section shall prevent the state health officer from exercising his authority to protect the public from adulterated or misbranded products by seizure and/or destruction of defective products in accordance with R.S. 40:632 and §105.D of this Chapter.

J. Any person or firm operating a food processing plant that violates the provisions of this Section shall be subject to a civil fine of not more than \$500.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:4(A)(1)(a), R.S. 40:5(2)(3)(5)(8)(15)(17)(19)(21) and R.S. 40:653.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 36:2284 (October 2010).

§129. Laboratory Test Reporting Requirements and Additional Test Mandate

A. When a person or firm operating a food processing plant in the state of Louisiana receives information from an in-house or external laboratory analyzing samples or specimens of finished foods or finished ingredients which indicates a confirmed positive test result signifying that the food or ingredient may be adulterated (in accordance with the definitions provided in R.S. 40:607, et seq.) or may otherwise constitute an imminent health hazard, the person or firm shall report this confirmed positive test result to

representatives of the Food and Drug Unit of the Office of Public Health of the Department of Health and Hospitals within 24 hours of obtaining such information.

B. The state health officer may, based upon a demonstration of probable cause by the Department of Health and Hospitals indicating that a food processing plant is producing food which may be adulterated (in accordance with the definitions provided in R.S. 40:607 et seq.) or in such a manner as to cause an imminent health hazard, order the food processing plant to submit samples to a laboratory specified by the department for testing at the food processing facility's expense. A copy of the written or electronic results of such testing, including a reference to test methods used, shall be furnished by the food processing plant or by the laboratory to the department as soon as a confirmed test result (either positive or negative) is available but no later than 24 hours of obtaining such information.

C. Any person or firm operating a food processing plant that violates the provisions of this Section shall be subject to a civil fine of not more than \$1,000.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40: 4(A)(1)(a), R.S. 40:5(2)(3)(5)(8)(15)(17)(19)(21) and R.S. 40: 654.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 36:2284 (October 2010).

Alan Levine
Secretary

1010#080

RULE

Office of the Governor Division of Administration Office of Group Benefits

PPO Plan of Benefits—Continued Coverage:
Michelle's Law (LAC 32:III.103)

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend the eligibility provisions of its Plan Document to provide availability of continued coverage for students enrolled in post-secondary educational institutions who would otherwise lose eligibility due to a medically necessary leave of absence, as required by "Michelle's Law" (Public Law 110-381). Accordingly, OGB hereby adopts the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 1. Eligibility

§103. Continued Coverage

A. - E.2.b. ...

F.1. Coverage may continue for an employee's never-married dependent child under the age of 24 years of age if, while enrolled as a full-time student in a post-secondary institution, the student ceases to meet the institution's full-time student criteria due to a medically necessary leave of absence. Coverage may continue until the earlier of:

a. one year from the start of the medically necessary leave of absence (COBRA rights would apply after the one year period has expired); or

b. the day the student's coverage would have otherwise ended under the terms of the plan.

2. For purposes of this provision, a "medically necessary leave of absence" includes an actual leave of absence from the post-secondary educational institution, or any other change in enrollment at the institution that:

a. begins while the student is suffering from a serious illness or injury;

b. is medically necessary; and

c. causes the loss of student status under the terms of the plan.

4. Written certification must be provided by a treating physician certifying that the student is suffering from a serious illness or injury that requires the medically necessary leave of absence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1827 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 30:1191 (June 2004), LR 32:1884 (October 2006), LR 36:2285 (October 2010).

Tommy D. Teague
Chief Executive Officer

1010#055

RULE

Office of the Governor Division of Administration Office of Group Benefits

PPO Plan of Benefits—Mental Health and
Substance Abuse Benefits (LAC 32:III.703)

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend the eligibility provisions of its Plan Document pertaining to mental health and substance abuse benefits to more closely align those benefits with the requirements of the Wellstone-Domenici Mental Health Parity and Addiction Equity Act of 2008 (parts of Public Law 110-343). Accordingly, OGB hereby adopts the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 7. Schedule of Benefits—PPO

§703. Mental Health and Substance Abuse

A. Co-Payments

Inpatient Co-Payment	\$100 per day (Maximum \$300 per admission)
Outpatient Co-Payment	\$25 per visit

B. Benefits

NOTE: Requires prior approval of services.

In-Network - 100 % of eligible expenses after applicable Co-Payment
Out-of-Network (Member resides in Louisiana) - 70 % of eligible expenses after applicable Co-Payment, subject to balance billing
Out-of-Network (Member resides outside Louisiana) - 90 % of eligible expenses after applicable Co-Payment, subject to balance billing

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(2).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1844 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 29:340 (March 2003), LR 36:2286 (October 2010).

Tommy D. Teague
Chief Executive Officer

1010#052

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

**PPO Plan of Benefits—Prescription Drug Benefits:
Brand/Generic (LAC 32:III.323)**

In accordance with the applicable provisions of R.S. 49:950, et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of its PPO Plan Document relative to prescription drug benefits to increase the member co-pay when a FDA Approved generic equivalent but a brand drug is dispensed. Accordingly, OGB hereby adopts the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§323. Prescription Drug Benefits

A. - B.12. ...

C. Outpatient prescription drug benefits are adjudicated by a third-party prescription benefits manager with whom

the program has contracted. In addition to all provisions, exclusions and limitations relative to prescription drugs set forth elsewhere in this plan document, the following apply to expenses incurred for outpatient prescription drugs.

1. In Network (participating pharmacy) Benefits

a. Regular Benefits. Upon presentation of the Group Benefits Program Health Benefits Identification Card at a network pharmacy, the plan member will be responsible for payment of 50 percent of the cost of the drug, up to \$50 per prescription dispensed. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy. There is a \$1,200 per person per plan year out-of-pocket threshold for eligible prescription drug expenses. Once this threshold is reached, that is, the plan member has paid \$1,200 of co-insurance/co-payments for eligible prescription drug expenses, the plan member will be responsible for a \$15 co-pay for brand name drugs, with no co-pay for generic drugs. The plan will pay the balance of the eligible expense for prescription drugs dispensed at a network pharmacy.

b. Dispense as Written (DAW) Reduced Benefits. The foregoing notwithstanding, when a generic is available but a brand drug is dispensed, the member will be responsible for payment of the full amount of excess cost (the difference between the brand and generic costs) in addition to the 50 percent of the cost the drug, up to \$50 per prescription dispensed.

2. In the event the plan member does not present the Group Benefits Program identification card to the network pharmacy at the time of purchase, the plan member will be responsible for full payment for the drug and must then file a claim with the prescription benefits manager for reimbursement, which will be limited to the rates established for non-network pharmacies.

3. If the plan member obtains a prescription drug from a non-network pharmacy in state, reimbursement will be limited to 50 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy. If the plan member obtains a prescription drug from a non-network pharmacy out of state, benefits will be limited to 80 percent of the amount that would have been paid if the drug had been dispensed at a network pharmacy.

4.a. Regardless of where the prescription drug is obtained, eligible expenses for brand name drugs will be limited to:

- i. the prescription benefits manager's maximum allowable charge for the generic, when available; or
- ii. the prescription benefits manager's maximum allowable charge for the brand drug dispensed, when a generic is not available.

b. There is no per prescription maximum on the plan member's responsibility for payment of costs in excess of the eligible expense. Plan member payments for such excess costs are not applied toward satisfaction of the annual out-of-pocket threshold (above).

5. Prescription drug dispensing and refills will be limited in accordance with protocols established by the prescription benefits manager, including the following limitations.

a. Up to a 30-day supply of drugs may be dispensed upon initial presentation of a prescription or for refills dispensed more than 120 days after the most recent fill.

b. For refills dispensed within 120 days of the most recent fill, up to a 90-day supply of drugs may be dispensed at one time, provided that co-payments shall be due and payable as follows.

i. For a supply of 1-30 days the plan member will be responsible for payment of 50 percent of the eligible expense for the drug, up to a maximum of \$50 per prescription dispensed, and 100 percent of excess cost.

ii. For a supply of 31-60 days the plan member will be responsible for payment of 50 percent of the eligible expense for the drug, up to a maximum of \$100 per prescription dispensed, and 100 percent of excess cost.

iii. For a supply of 61-90 days the plan member will be responsible for payment of 50 percent of the eligible expense for the drug, up to a maximum of \$150 per prescription dispensed, and 100 percent of excess cost.

NOTE: Repealed.

5.b.iv. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1835 (October 1999), amended LR 27:720, 721 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2344 (November 2002), LR 29:342 (March 2003), LR 32:1892 (October 2006), LR 32:2254 (December 2006), LR 36:2286 (October 2010).

Tommy D. Teague
Chief Executive Officer

1010#053

RULE

**Office of the Governor
Division of Administration
Office of Group Benefits**

**PPO Plan of Benefits—Wellness Benefits
(LAC 32:III.301 and 701)**

In accordance with the applicable provisions of R.S. 49:950 et seq., the Administrative Procedure Act, and pursuant to the authority granted by R.S. 42:801(C) and 802(B)(2), as amended and reenacted by Act 1178 of 2001, vesting the Office of Group Benefits (OGB) with the responsibility for administration of the programs of benefits authorized and provided pursuant to Chapter 12 of Title 42 of the Louisiana Revised Statutes, and granting the power to adopt and promulgate rules with respect thereto, OGB finds that it is necessary to revise and amend provisions of its PPO Plan Document relative to wellness benefits, to increase the benefits from \$200 to \$500. Accordingly, OGB hereby adopts the following Rule to become effective upon promulgation.

Title 32

EMPLOYEE BENEFITS

Part III. Preferred Provider (PPO) Plan of Benefits

Chapter 3. Medical Benefits

§301. Eligible Expenses

A. - A.23.b.ii. ...

c. well adult care expenses, not subject to the annual deductible, but limited to a maximum benefit of \$500:

23.c.i. - 35.c. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1830 (October 1999), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 28:480 (March 2002), LR 29:339, 343 (March 2003), LR 30:1192 (June 2004), LR 31:441 (February 2005), LR 32:1888 (October 2006), LR 32:1898 (October 2006), LR 34:646 (April 2008), LR 34:646 (April 2008), effective May 1, 2008, LR 34:649 (April 2008), effective May 1, 2008, LR 34:2562 (December 2008), effective January 1, 2009, LR 36:2287 (October 2010).

Chapter 7. Schedule of Benefits—PPO

§701. Comprehensive Medical Benefits

A. - C.2. ...

3. Well Adult (no deductible—limited to a maximum benefit of \$500)

Age 16-39—1 physical every 3 years	² See % payable below
Age 40-49—1 physical every 2 years	² See % payable below
Age 50 and over—1 physical every year	² See % payable below

²Participating providers are reimbursed at 100 percent of eligible expenses up to the maximum benefit; non-participating providers are reimbursed at 70 percent of eligible expenses up to the maximum benefit.

Services include screenings to detect illness or health risks during a physician office visit. The covered services are based on prevailing medical standards and may vary according to age and family history.

Specialized age appropriate wellness (not subject to deductible). For a complete list of benefits, see §301.A.24 of this Part.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:801(C) and 802(B)(1).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Trustees of the State Employees Group Benefits Program, LR 25:1843 (October 1999), amended LR 26:488 (March 2000), LR 27:719, 720, 722 (May 2001), amended by the Office of the Governor, Division of Administration, Office of Group Benefits, LR 27:1887 (November 2001), LR 28:2345 (November 2002), LR 29:340, 342, 343 (March 2003), repromulgated LR 29:578 (April 2003), amended LR 30:1192 (June 2004), LR 32:1897 (October 2006), LR 33:644 (April 2007), LR 33:1122 (June 2007), LR 34:646 (April 2008), effective May 1, 2008, LR 36:2287 (October 2010).

Tommy D. Teague
Chief Executive Officer

1010#054

RULE

**Office of the Governor
Used Motor Vehicle Commission**

Used Motor Vehicles (LAC 46:V.Chapters 27, 29, and 35)

Notice is hereby given in accordance with the provision of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 32:783(E), that the

Louisiana Used Motor Vehicle Commission amends LAC 46:V.Chapters 27, 29 and 35 in order to implement recent amendments made in the 2007 and 2009 Legislative Sessions.

Specifically, the changes will eliminate the buyer's identification card requirements as repealed and amended by Act 257 of the 2007 Legislative Session, and the changes will implement the transfer of the licensing and regulation of the recreational products to the Louisiana Motor Vehicle Commission. This Rule will provide for the new name of the commission in which it will be changed from the Recreational and Used Motor Vehicle Commission to the Used Motor Vehicle Commission.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part V. Automotive Industry

Subpart 2. Used Motor Vehicles

Chapter 27. The Used Motor Vehicle Commission

§2701. Meetings of the Commission

A. The commission shall meet at its office in Baton Rouge, Louisiana on a date and time to be fixed by the commission.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E)(1) and R.S. 42:5.D.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989) LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010).

§2703. Quorum of the Commission

A. The quorum of the commission shall be established in accordance with those set for public bodies, R.S. 42:4.2(A)(3), as a majority of total membership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(A).

HISTORICAL NOTE: Promulgated by Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 24:1682 (September 1998), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010).

§2705. Executive Director

A. The Executive Director of the Louisiana Used Motor Vehicle Commission shall be in charge of the commission's office and shall conduct and direct the activities thereof in the manner as directed by the commission. The employees of the commission shall report to the executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633

(August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010).

§2707. Correspondence with the Commission

A. ...

B. Louisiana Used Motor Vehicle Commission forms, applications and dealer aids are recognized as the commission official forms for licensing and communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010).

§2709. Official Seal

A. The official seal of the Louisiana Used Motor Vehicle Commission shall be as follows. The outline of the state of Louisiana with a small star denoting the approximate location of Baton Rouge, which name appears to the left of the star. It shall be bordered by the inscription, Louisiana Used Motor Vehicle Commission.

B. The executive director shall be the custodian of the official seal and shall affix the imprint or the facsimile thereof to all license certificates issued by the Louisiana Used Motor Vehicle Commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(D)(4).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010).

Chapter 29. Licenses to be Issued by the Louisiana Used Motor Vehicle Commission

§2901. Dealers to be Licensed

A. - C. ...

D. Repealed.

E. Brokers of used motor vehicles, used parts, are considered to be dealers and must comply with licensing regulations contained therein.

F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 24:1682 (September 1998), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission LR 30:436 (March 2004), repromulgated LR 30:792 (April 2004), LR 30:1477 (July 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:002288 (October 2010).

§2903. Dealer Licenses

A. - F. ...

G. - G.6. Repealed.

H. - K. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:784.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts

Commission, LR 15:258 (April 1989), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1634 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010).

Chapter 31. License for Salesman

§3101. Qualifications and Eligibility for Licensure

A. - B. ...

C. Upon termination of employment, the salesman license will be returned by the dealer to the office of the Used Motor Vehicle Commission within 10 days.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:781(33).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1063 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 25:245 (February 1999), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1635 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2289 (October 2010).

Chapter 35. Buyer Identification Card

§3501. Buyer Identification Card Required

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:762.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 15:1058 (December 1989), repealed by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2289 (October 2010).

§3503. Qualifications and Eligibility for Buyer Identification Card

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:808.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1064 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:259 (April 1989), LR 15:1058 (December 1989), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:1588 (July 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 30:2481 (November 2004), LR 33:1635 (August 2007), repealed by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2289 (October 2010).

Chapter 44. Educational Seminar

§4401. Required Attendance

A. On or after January 1, 2005, every applicant for a license issued by the Used Motor Vehicle Commission except those excluded by statute must attend a four-hour educational seminar approved and conducted by the Louisiana Used Motor Vehicle Commission.

1. The seminar will be conducted by employees of the Recreational and Used Motor Vehicle Commission and will be held at such place to be determined by the commission upon reasonable notice.

2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B) (3), 802 (D), 811 (B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended LR 30:436 (March 2004), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2289 (October 2010).

§4405. Educational Program

A. The educational seminar will consist of information pertaining to the Used Motor Vehicle Commission, Department of Revenue, Office of Motor Vehicles, Wildlife and Fisheries, Motor Vehicle Commission and Attorney General's Office. The items to be reviewed are as follows:

1. LUMVC—background of the agency, laws, rules and regulations, license requirements, area of responsibility, complaint procedures, and non-delivery of titles;

2. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:791(B)(3), 802(D), 811(B).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2352 (November 2002), repromulgated LR 28:2511 (December 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1637 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2289 (October 2010).

Derek Parnell
Executive Director

1010#021

RULE

Department of Public Safety and Corrections Corrections Services

Disciplinary Rules and Procedures for Adult Offenders
(LAC 22:I.363)

In accordance with the provisions of the Administrative Procedure Act (R.S. 49:950), the Department of Public Safety and Corrections, Corrections Services, hereby amend the contents of Section 363 Disciplinary Rules.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part I. Corrections

Chapter 3. Adult Services

Subchapter B. Disciplinary Rules and Procedures for Adult Offenders

§363. Disciplinary Rules

A. - X.10 ...

11. the communication of statements or information known to be malicious, frivolous, false, and/or inflammatory, the purpose of which is reasonably intended to harm, embarrass, or intimidate an employee, visitor, guest, offender or their families; (This rule shall not apply to information and/or statements communicated for the express purpose of obtaining legal assistance.)

12. - 23. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:823, Wolff v. McDonnell, 94 S.Ct. 2963 (1974), Ralph v. Dees, C.A. 71-94, USDC (Md. La.) and Sandin v. Conner, 115 S.Ct. 2293 (1995). Cassels v. Stalder, 342 F. Supp. 2d 555.

HISTORICAL NOTE: Promulgated by the Department of Corrections, Office of Adult Services, LR 27:419 (March 2001), amended by the Department of Public Safety and Corrections, Corrections Services, LR 31:1099 (May 2005), LR 34:2201 (October 2008), LR 36:2289 (October 2010).

James M. Le Blanc
Secretary

1010#084

RULE

Department of Revenue Policy Services Division

Application of Net Operating Losses
Carryover to Otherwise Closed Years
(LAC 61:I.1125)

Under authority of R.S. 47:287.86 and 1511 and in accordance with provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Policy Services Division, adopts LAC 61:I.1125 to provide for the application of net operating losses to otherwise closed years.

Title 61

REVENUE AND TAXATION

Part I. Department of Revenue—Taxed Collected and Administered by the Secretary of Revenue

Chapter 11. Corporation Income Tax

§1125. Application of Net Operating Losses Carryover to Otherwise Closed Years

A. The Louisiana Department of Revenue will follow the position of the Internal Revenue Service set out in Revenue Ruling 81-88 when determining whether a net operating loss (NOL) carryback should be applied against the income claimed on the taxpayer's return or the income that should have been reported.

B. In determining the amount of an overpayment of income tax from an NOL carryback that may be refunded or credited:

1. the taxable income of the carryback year for which the prescriptive period has otherwise run should not be reduced by the amount of an unclaimed deduction or by the amount of an item of income reported in error;

2. however, an adjustment should be taken into account if it would increase the income in the year to which the net operating loss is carried back and the increase in income should be applied as a setoff against the net operating loss carryback.

C. Examples

1. A calendar year 100 percent Louisiana corporate taxpayer has an NOL of \$165,000 for Year 3. Its taxable income before the federal income tax (FIT) deduction for each of its two earlier years is as follows: Year 2-\$150,000 and Year 1-\$100,000. On April 1, Year 6, taxpayer files a claim for refund for Year 1 (its first year of operation) and Year 2 due to the Year 3 NOL carryback. In September, Year 6, a LDR audit of Year 1 through Year 4 shows that taxpayer failed to claim a \$20,000 deduction in Year 1. The prescriptive period for filing a refund claim for this unclaimed deduction expired on December 31, Year 5. Year 1 income (as originally reported) of \$100,000 is not reduced by the unclaimed deduction for purposes of computing Year

1's pre-modification taxable income, and the unclaimed deduction isn't taken into account in determining the Year 3 NOL to be carried to Year 2. Thus the taxpayer is entitled to a full refund or credit of all its Year 1 tax paid on the Year 1 reported income of \$100,000, and the Year 3 NOL carried to Year 2 is \$65,000 (i.e. Year 3 NOL of \$165,000 less Year 1 reported income of \$100,000).

2. A calendar year 100 percent Louisiana corporate taxpayer has an NOL of \$165,000 for Year 3. Its taxable income before the FIT deduction for each of its two earlier years is as follows: Year 2-\$150,000 and Year 1-\$100,000. On April 1, Year 6, taxpayer files a claim for refund for Year 1 (its first year of operation) and Year 2 due to the Year 3 NOL carryback. In September, Year 6, an LDR audit of Year 1 through Year 4 shows that taxpayer failed to report \$20,000 of income in Year 1. Year 1 income (as originally reported) of \$100,000 is increased by the unreported income for purposes of computing Year 1's pre-modification taxable income, and the unreported income is taken into account in determining the Year 3 NOL to be carried to Year 2. Thus the taxpayer is entitled to a full refund or credit of all its Year 1 tax paid on the Year 1 actual income of \$120,000, and the Year 3 NOL carried to Year 2 is \$45,000 (i.e. Year 3 NOL of \$165,000 less Year 1 actual income of \$120,000).

AUTHORITY NOTE: Promulgated in accordance with R.S. 47:287.86 and 1511.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Policy Services Division, LR 36:2290 (October 2010).

Cynthia Bridges
Secretary

1010#051

RULE

Sheriffs' Pension and Relief Fund

Court Order or Judgment
(LAC 58:XV.101)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq. that the Louisiana Sheriffs' Pension and Relief Fund (the "Fund") has adopted a Rule pursuant to R.S.11:291(B), clarifying the circumstances under which notice is deemed to be received by the Fund for purposes of that statute. The statute specifically authorizes the adoption of rules by the boards and agencies affected by the statute and this Rule is issued in accordance with this statutory authorization.

Title 58

RETIREMENT

Part XV. Sheriffs' Pension and Relief Fund

Chapter 1. General Provisions

§101. Court Order or Judgment

A. To be effective as to the Louisiana Sheriffs' Pension and Relief Fund, any court order or judgment issued upon or after the termination of a community property regime which order or judgment recognizes the community interest of a spouse or a former spouse of a member or retiree of the Louisiana Sheriffs' Pension and Relief Fund and provides that a benefit or return of employee contributions be divided by the Louisiana Sheriffs' Pension and Relief Fund with the spouse or former spouse, shall be:

1. considered to be received by the Louisiana Sheriffs' Pension and Relief Fund under R.S. 11:291(B) only if a certified copy of the order is served on the Executive Director or Assistant Executive Director of the Fund by the Sheriff of East Baton Rouge Parish; and

2. specific to the Louisiana Sheriffs' Pension and Relief Fund.

B. A court order purporting to divide a member's or retiree's benefits and/or employee contributions between the member/retiree and former spouse that does not specifically identify the Louisiana Sheriff's Pension and Relief Fund by name shall not be effective as to said fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:291(B).

HISTORICAL NOTE: Promulgated by the Louisiana Sheriff's Pension and Relief Fund, LR 36:2290 (October 2010).

Osey McGee, Jr.
Executive Director

1010#016

RULE

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

Hunting Preserve Regulations (LAC 76:V.305)

The Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission does hereby amend the rules for hunting preserves.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 3. Wild Birds

§305. Hunting Preserve Regulations

A. As provided by R.S. 56:651, the department may issue a license to operate hunting preserves. Hunting preserves are to be operated under the following regulations.

1. Application Requirements

a. Application shall be made in writing on forms provided by the department.

b. Applicant must provide proof of ownership or verification of exclusive hunting rights from the landowner of the property the hunting preserve is to be operated. This is to be returned with the application.

c. All applicants, including applicants for renewal as required by the department, must provide a written operational plan detailing the type(s) of birds to be released, the methods(s) and time of release, and location(s) of release. A description of hunting activities that occur or are likely to occur on the preserve and surrounding property must also be included. In the case of hunting preserves approved to utilize mallards, a map must be included in the operational plan which indicates the release site, water areas, and shooting areas. A license will not be issued until the operational plan has been approved by the department. Deviation from the approved operational plan is permitted only with written consent of the department.

d. The department may revoke/deny any hunting preserve license for failure to comply with any fish or wildlife laws, for reasons relating to disease or public health, for deviation from an approved operational plan, or for

failure to abide by the rules and regulations established for this hunting preserve program. Revocation/denial shall be for a minimum of one entire hunting preserve season.

e. New applications must be received prior to August 1 for operation during the forthcoming hunting preserve season.

2. Suitability of Area for Use as a Hunting Preserve

a. No license for a hunting preserve shall be issued until an on-site investigation has been completed by the department and the department has determined that the property is suitable for the purpose of the proposed hunting preserve. The department shall base its determination on whether or not the proposed shooting area will cause conflicts with wild migratory game bird hunting, or be in violation of state and federal regulations concerning the feeding of migratory waterfowl or the use of live decoys, that the establishment of the shooting area will be in the public interest, and that the operation of a hunting preserve at the location specified in the application will not have a detrimental effect upon wild migratory or resident game birds.

b. No license shall be issued for any hunting preserve situated on a marsh, lake, river or any other place where there are concentrations of wild waterfowl or if its operations are likely to result in attracting such concentrations of wild waterfowl.

c. No hunting preserve using mallards shall be located within five miles of any wildlife area with significant waterfowl concentrations owned or leased by the state or federal government or by non-profit conservation organizations.

d. Licenses for hunting preserves using mallards will not be issued in the coastal zone, defined as that area south of I-10 from the Texas state line to Baton Rouge, south of I-12 from Baton Rouge to Slidell and south of I-10 from Slidell to the Mississippi state line.

e.i. No license shall be issued for the use of pheasants on any hunting preserve situated within areas with medium to high turkey populations. Except, a conditional license for the use of pheasants may be issued provided the applicant/licensee agrees to and adheres to the following.

(a). The pheasant flock must be free of *Heterakis gallinarum*, the vector for *Histomonas meleagridis* which can cause blackhead disease in wild turkeys.

(b). Department biologists or other authorized personnel must be granted access to all pheasant pens without advance notice to collect biological samples for *Heterakis gallinarum* testing.

(c). If greater than 10 percent of the samples indicate the presence of *Heterakis gallinarum*, pheasant releases must immediately stop and cannot resume until the flock is treated and subsequent testing by the department indicates that no greater than 10 percent of the samples are positive for *Heterakis gallinarum*.

(d). Use of drugs to control *Heterakis gallinarum* must adhere to drug withdrawal times as established under federal guidelines.

ii. In areas with low turkey populations and low potential for expansion, pheasants may be used without condition. This determination will be made at the local level by a department biologist in consultation with the wild turkey program leader.

f. The licensee is responsible for notifying the department of changes in activities or conditions that may affect the suitability of the property for a hunting preserve. If at any time, the department determines that activities or conditions on the hunting preserve or surrounding property make the property unsuitable for a hunting preserve, or that continued operation of the hunting preserve is not consistent with these regulations, the department may immediately revoke the hunting preserve license, or require modification of the operational plan.

g. Applicants and licensees are advised that hunting preserve licenses are issued following a review and recommendations by department staff. Licenses are issued on an annual basis for a 12-month term only. Changing conditions, including those such as climatic, biological, and land use, which may be beyond the control of the applicant/licensee, may result in certain applications not being granted, or licenses not being renewed. Annual renewal of hunting preserve licenses cannot be assured and applicants/licensees are cautioned to take these factors into consideration when making any investments or commitments which may relate to the continued issuance of a hunting preserve license.

3. Types of Releases Allowed

a. The use of mallards on hunting preserves is limited to those operations whereby domestic mallards are released in a controlled fashion to proceed over positioned shooters in their flight path. No direct releases of any species of domesticated waterfowl into the wild for any sporting purposes or for any reasons are permitted within the state.

b. Quail may be released after September 1 on hunting preserves for the purpose of providing coveys for hunting. Pheasants and chukars may not be released on hunting preserves more than one day prior to a scheduled hunt. No direct releases of domesticated game birds, including but not limited to quail, pheasants and chukars, into the wild for purpose of population establishment are permitted within the state.

c. All quail and mallards must be banded in accordance with R.S. 56:654(4) prior to release.

4. Inspection of Permitted Areas and Domesticated Game Birds

a. Applicant must provide proof that the birds to be released originated from a source flock participating in the National Poultry Improvement Plan (NPIP) within 365 days prior to release and have not been in contact with birds from non-NPIP sources.

b. The premises of game bird production facilities and/or holding pens may be inspected by the department or by a designated agent for assessment of health of birds and sanitation of facilities. General pen requirements must conform to those adopted by the Louisiana Wildlife and Fisheries Commission for game breeders.

c. Accurate records of animal husbandry and mortality must be maintained at production/holding facilities and will be subject to periodic inspection by the department.

d. Every person who brings or causes to be brought into this state live domestically reared game birds for shooting purposes must comply with Livestock Sanitary Board regulations on livestock, poultry, and wild animals (R.S. 7:11705, 11767 and 11789). A copy of the health certificate must also be forwarded to the Department of Wildlife and Fisheries within 10 days for each shipment of birds. Any shipment of birds not accompanied by a health certificate shall be destroyed or returned to the place of origin by the importer at his sole cost and responsibility.

5. Hunting Licenses Requirements. A basic hunting license or hunting preserve license is required of all persons hunting on hunting preserves. In addition, a Louisiana Waterfowl Hunting License (formerly known as a state duck stamp) is required as provided by law of all persons taking or hunting mallards on any hunting preserves.

6. Season Dates. The season during which shooting will be permitted shall be set by the Louisiana Wildlife and Fisheries Commission. The current season is fixed for the period of October 1 through April 30.

7. Shooting Hours. Shooting hours for hunting preserves shall be set by the Louisiana Wildlife and Fisheries Commission. The current hours are one-half hour before sunrise to sunset.

8. Methods of take:

a. shotguns 10 gauge or smaller capable of holding no more than three shells in the magazine and chamber combined; nontoxic shot is required for hunting mallards on hunting preserves approved for use of mallards;

b. muzzle-loading shotguns;

c. falconry;

d. archery equipment.

B. Existing state laws R.S. 56:651-659 and federal law 50 CFR 21:13 address bird banding, bird identification, bird transportation, reports and records and other issues. Compliance with these state and federal laws are mandatory. Hunting and taking of wild migratory and wild resident game birds on licensed hunting preserves must conform to all state and federal hunting regulations, including, but not limited to: non-toxic shot requirements, federal duck stamp requirements, live decoy prohibition, seasons and bag limits.

C. Changes in Rules. The Louisiana Wildlife and Fisheries Commission, Louisiana Department of Agriculture and the U.S. Fish and Wildlife Service may from time to time make changes in these rules and it is the responsibility of the licensee to apprise himself of any changes and to abide by them.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:651-659.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 18:1136 (October 1992), amended LR 28:1033 (May 2002), LR 36:2291 (October 2010).

Robert J. Barham
Secretary

1010#089

Notices of Intent

NOTICE OF INTENT

Department of Civil Service
Civil Service Commission

Exemptions from Testing Requirements

The State Civil Service Commission will hold a public hearing on Wednesday, November 10, 2010 to consider the following proposed Civil Service Rule related to a testing exemption for newly discharged military personnel. The hearing will begin at 9:00 a.m. and will be held in the Claiborne Building, 1201 North Third Street, Baton Rouge, Louisiana. The Commission will consider action on this proposed Rule in accordance with Article X, Section 10 of the Constitution of the State of Louisiana.

The following rule will be considered at the meeting:
Amend Rule 22.8 to add subsection (d)

22.8 Exemptions from Testing Requirements

(a) - (c). ..

(d) An appointing authority may fill a vacancy by probational appointment or job appointment of a veteran of the armed forces who has been honorably discharged from active duty within the previous 12 months without the appointee's attainment of any Civil Service test scores normally required, provided the appointee meets the Minimum Qualifications of the job. The veteran must have been honorably discharged and have served at least 90 days of active service for purposes other than training. An appointing authority may make an offer to an active member of the armed forces but the effective date of the appointment cannot be prior to the discharge date.

Explanation

The proposed Rule would allow a temporary exemption from testing requirements for active members and recently discharged veterans of the United States Armed Forces who seek employment with the State of Louisiana. The Rule will allow them to apply while still on active duty prior to returning to Louisiana and to be appointed up to 12 months after they are honorably discharged without the need to test for those jobs normally requiring a written test score. By removing the test requirement, we will facilitate the reentry into the workforce of military personnel who have recently been serving our country. Because the purpose of the rule is to provide for rapid reintegration of recently serving veterans into the workforce rather than to provide a perpetual entitlement, the Rule places a time limit on the test exemption of 12 months from the date of honorable discharge from active duty. While an offer may be made, the appointment effective date cannot be prior to the discharge date.

Shannon S. Templet
Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Exemptions from Testing Requirements

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This Rule is administrative only and will have no direct cost or savings, other than the costs associated with publication which total approximately \$355.00.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This Rule will have no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The temporary exemptions from testing requirements for active members and recently discharged veterans will facilitate reentry into the workforce and provide more rapid reintegration of veterans into the workforce.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Recently discharged veterans and active members of the military would be allowed a temporary exemption from testing requirements and should provide for increased opportunities for employment for these individuals.

Shannon S. Templet
Director
1010#058

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Economic Development
Office of Business Development

Quality Jobs Program (LAC 13:I.Chapter 11)

The Department of Economic Development, Office of Business Development, as authorized by and pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., hereby gives notice of its intent to amend and reenact Sections 1101 through 1131 of the Quality Jobs Program as LAC 13:I.Chapter 11.

The proposed amendment makes numerous changes. Act 326 of the 2005 Regular Legislative Session added "medical industries serving rural hospitals" as a category of eligible businesses. Act 387, 2007 Regular Session changed the required wages from at least 1 3/4 (5 percent rebate) and 2 1/4 (6 percent rebate) times minimum wage to \$14.50 and \$19.10 per hour including health benefits; changed the required health insurance benefit from 85 percent of premiums for individual and 50 percent for family to health benefits with a value of at least \$1.25 per hour; provided for transition rules from previous law to Act 387 requirements; and deleted provision that prohibited employers with less than 50 employees, from entering into contingency contract

with consultants to obtain QJ benefits. Non-statutory changes, include revision of the application procedure and clarified requirements for timely filing; allowing jobs associated with business sales to qualify in certain instances (not allowed under current rules), if the facility is out of operation for 3 months, or LED must make a determination that the jobs would have been lost to the state absent the sale; Allowing jobs that are housed at another site for training purposes, and then transferred to the QJ site, to be eligible; Referencing the 1.5 percent investment tax credit available through EZ; utilizing a 45-day average to establish employment baseline, as opposed to a "high" point; allowing payroll rebates for new jobs once they meet QJ wage and benefit eligibility requirements, even if the job didn't meet eligibility requirements when initially filled; allowing a site to have a second QJ contract if it has a significant expansion while under its initial QJ contract; allowing an employee that was rehired to refill a job that was created after the QJ effective date to count towards payroll rebates; extending to 6 months the timeframe for filing an Annual Certification (current rule is 3 months).

The proposed Rule change is necessary because of Act 326 of the 2005 Regular Session, Act 387 of the 2007 Regular Session, and the Board of Commerce and Industry and the staff of DED have determined that the current rules are too vague and not specific enough in certain areas and needed to be clarified and more specific.

Title 13

ECONOMIC DEVELOPMENT

Part I. Financial Incentive Programs

Chapter 11. Quality Jobs Program

§1101. General

A. Purpose. The Quality Jobs Program provides rebates as an inducement for businesses in traditional or seed clusters targeted for development by the department to locate or expand existing operations in Louisiana, and to support employers who will make significant contributions to the development of the state economy.

B. Program Description

1. The amount of the rebate is directly related to the New Direct Jobs created and to the new annual gross payroll generated as the result of the employer locating or expanding existing operations in the state.

2. The employer may be entitled to sales and use tax rebates or the investment tax credit authorized in R.S. 51:1787 if the employer meets the Enterprise Zone Program hiring requirements, in addition to the requirements of this Chapter.

C. Effective date of Act 387 of the 2007 Regular Session

1. The provisions of Act 387 shall apply to all contracts executed on or after June 30, 2007, except as provided below.

2. The provisions of the Quality Jobs Program prior to the enactment of Act 387 shall apply to contracts executed or advance notifications filed prior to June 30, 2008, if at the time the contract is executed, amended or renewed the employer does not elect to apply the provisions of Act 387.

3. The provisions of Act 387 shall apply to contracts executed or advance notifications filed prior to June 30, 2008 if at the time the contract is executed, amended or renewed the employer elects to apply the provisions of Act 387. Upon such election, the provisions of Act 387 shall be

applied beginning with the fiscal year in which the election is made.

4. The provisions of Act 387 may not be applied to any fiscal year beginning prior to January 1, 2007.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2305 (November 2003), amended by the Office of Business Development, LR 37:

§1103. Definitions

Act 387—Act 387 of the 2007 Regular Session of the Louisiana Legislature.

Affiliate—

1. any business entity that is:

- a. controlled by the employer;
- b. a controlling owner of the employer; or
- c. controlled by an entity described in Subparagraph a or b;

2. control, for purposes of this definition, means owning either directly or indirectly through control of or by another business entity:

- a. a majority of the voting stock or other voting interest of such business entity or the employer; or
- b. stock or other interest whose value is a majority of the total value of such business entity or the employer;

3. a controlled or controlling business entity will be deemed a non-affiliate (not an affiliate) if the department determines that neither the employer nor any of its controlling owners exercise authority over the management, business policies and operations of the business entity.

Basic Health Benefits Plan or the Health Insurance Coverage—that which is required to be offered shall include individual coverage for basic hospital care, coverage for physician care, and coverage for health care which shall be the same as that provided to executive, administrative, or professional employees. Coverage must become effective no later than the first day of the month 90 days after hire date.

Benefit Rate—one of the following percentages:

1. contracts subject to the provisions of Act 387:

- a. the benefit rate shall be 5 percent for new direct jobs which pay at least \$14.50 per hour in wages and health care benefits;
- b. the benefit rate shall be 6 percent for new direct jobs which pay at least \$19.10 per hour in wages and health care benefits;
- c. health care benefits paid shall be the value of the health care benefits plan elected by an employee, as determined by the department;

2. contracts not subject to the provisions of Act 387:

- a. the benefit rate shall be 5 percent for new direct jobs which pay at least 1 3/4 times the federal minimum hourly wage rate;
- b. the benefit rate shall be 6 percent for new direct jobs which pay at least 2 1/4 times the federal minimum hourly wage rate and meet one of the following criteria:
 - i. the new direct jobs are located in a distressed region, or at least 50 percent of the new direct jobs shall be filled by persons who reside in a distressed region;

ii. the new direct jobs are with an employer categorized in a traditional or seed cluster targeted by the department.

Board—the Louisiana Board of Commerce and Industry.

Contract Effective Date—the day that the advance notification and fee were received by the department, or a later contract effective date specified on the application. The contract effective date cannot be earlier than the date the advance notification and fee are received by the department.

Contract Execution—means the date the contract is signed by the governor.

Department—the Louisiana Department of Economic Development.

Distressed Region—as designated by the department:

1. a parish with a per capita income in the lowest 25 percent of the parishes; or

2. a census tract and block group that is below the state median per capita income, based on the most recent federal decennial census.

Domicile—the place of a person's principal establishment or habitual residence. A change of domicile may be shown by positive and satisfactory proof of establishment of domicile as a matter of fact with the intention of remaining in the new place and of abandoning the former domicile. Such proof may include a sworn declaration of intent recorded in the parish to which a person intends to move, voter registration, or similar evidence of such intent.

Employment Baseline—the median statewide number of employees of an employer, including affiliates, working the average hours per week required in §1105, excluding employees engaged in lines of business that the department determines are unrelated to the activities for which quality job program benefits are sought, during the payroll periods including the twelfth day of the month, in the last four months completed prior to the contract effective date (the median is calculated by discarding the months with the highest and lowest number of employees, and averaging the number in the remaining two months). The employment baseline must be maintained in any year for which the employer requests payroll rebates. The employment baseline may be reduced by the number of employees retained and continued in employment for at least one year by an unrelated third party business acquiring a site or line of business.

Employer—a legal person who applies for and executes a Quality Jobs Program contract with the department pursuant to the provisions of R.S. 51:2452-2462.

Gross Payroll—

1. wages for the new direct jobs upon which the specified benefit rate is calculated;

2. for medical industries serving rural hospitals, gross wages shall include only those wages directly related to providing services to a rural hospital.

Health Care Benefits—means the amount of any payment to or on behalf of an individual in its employ for individual coverage under a plan or system established by an employer which makes provision for individuals in its employ generally or for a class or classes of such individuals including any amount paid by an employer for insurance or annuities, or into a fund to provide for any such payment for the basic health benefits plan or health insurance coverage,

or the value of the health plan or health insurance coverage offered by the employer to an individual it employs.

Hire Date—the first day of work for which the employer directly pays an employee.

Medical Industries—a person, or entity licensed or certified by this state to provide health care or professional services as a physician, hospital, nursing home, community blood center, tissue bank, dentist, registered or licensed practical nurse or certified nurse assistant, ambulance service, certified registered nurse anesthetist, nurse midwife, licensed midwife, pharmacist, optometrist, podiatrist, chiropractor, physical therapist, occupational therapist, psychologist, social worker, licensed professional counselor, licensed perfusionist.

LDR—the Louisiana Department of Revenue.

LWC—the Louisiana Workforce Commission, formerly the Louisiana Department of Labor.

NAICS—North American Industrial Classification System.

New Direct Job—employment at a Louisiana site:

1. of an employee:

a. whose domicile is in the state of Louisiana;

b. working the average hours per week required by §1105; and

c. who prior to the contract effective date was not on the payroll in Louisiana of:

i. the employer;

ii. the employer's parent entity, subsidiary, or affiliate; or

iii. any business whose physical plant and employees were or are substantially the same as those of the employer, unless either:

(a) there has been an arm's length transfer of ownership between unrelated companies (not affiliates), and either the location has been out of operations for at least three months; or

(b) the secretary determines that the jobs would have likely been lost to the state absent the transfer (under such circumstances jobs at the re-opened plant are deemed not to have previously existed for purposes of Subparagraph 2.b. below);

2. in a job (a position of employment) that:

a. is with an employer that has qualified for the incentive rebate;

b. did not exist in this state prior to the advance notification being filed by the employer with the department pursuant to the provisions of R.S. 51:2455; and

c. is not part of the employment baseline;

d. is based at the project site, as determined by the department considering the employee's physical work site, the site to which the employee reports or which administers the employment, the site from which the employee receives work, and the nature of the business;

3. the following jobs are not new direct jobs;

a. jobs created as a result of the employer securing a contract to supply goods and services in the state of Louisiana, if another business was under an obligation to supply the same goods and services from a facility located in Louisiana and such obligation was terminated within three months prior to creation of the job by the employer;

b. jobs transferred, or jobs associated with work or sales transferred, from other Louisiana sites as a result of the employer (including affiliates) acquiring a business

operation, or substantially all of its assets, and continuing the business operation.

Project Site—the single contiguous physical location shown on the application.

Rural Hospital—as defined by R.S. 40:1300.

Wages—all remuneration for services from whatever source, including commissions and bonuses and the cash value of all remuneration in any medium other than cash, and dismissal payments which the employer is required by law or contract to make. Gratuities shall be estimated in accordance with the Internal Revenue Code and its rules and regulations. Wages shall not include the following:

1. the amount of any payment with respect to services performed after January 1, 1951, to or on behalf of an individual in its employ under a plan or system established by an employer which makes provision for individuals in its employ generally, or for a class of classes of such individuals, including any amount paid by an employer for insurance or annuities, or into a fund to provide for any such payment, on account of:

a. retirement;

b. sickness or accident disability;

c. medical and hospitalization expenses in connection with sickness or accident disability;

d. death, provided the individual in its employment does not have the option to receive, instead of provision of such death benefit, any part of such payment or, if such death benefit is insured, any part of the premium or contributions to premiums paid by his employer or does not have the right, under the provisions of the plan or system or policy of insurance providing for such death benefit, to assign such benefit or to receive cash consideration in lieu of such benefit either upon his withdrawal from the plan or system providing for such benefit or upon the termination of such plan or system or policy of insurance or of his services with such employer; or

e. a bona fide thrift or savings fund, providing such payment is conditioned upon a payment of a substantial sum by such individuals in its employment and such sum paid by the employer cannot under the provisions of such plan be withdrawn by an individual more frequently than once in any 12 month period, except upon an individual's separation from that employment;

2. any payment made to, or on behalf of, an employee or his beneficiary under a cafeteria plan of the type described in 26 U.S.C. 125 and referred to in 26 U.S.C. 3306(b)(5)(G);

3. any payment made, or benefit furnished, to or for the benefit of an employee if at the time of such payment or such financing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under an educational assistance program as described in 26 U.S.C. 127 or a dependent care assistance program as described in 26 U.S.C. 129 and as referred to in 26 U.S.C. 3306(b)(13);

4. the payment by an employer, without deduction from the remuneration of the individual in its employ, of the tax imposed upon such individual in its employ under Section 3101 of the federal Internal Revenue Code with respect to domestic services in a private home of the employer or for agricultural labor performed after December 31, 1980;

5. dismissal payments that the employer is not required by law or contract to make; or

6. the value of any meals and lodging furnished by or on behalf of an employer to an individual in his employ, provided the meals and lodging are furnished on the business premises of the employer for the convenience of the employer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:961 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2306 (November 2003), amended by the Office of Business Development, LR 37:

§1105. Qualified Employers

A. To qualify for a Quality Jobs Program contract an employer must meet the following requirements.

1. Eligible Businesses. The nature of the employer's business must fall within one of the following categories:

a. one of the following six Vision 2020 cluster industries:

i. biotechnology, biomedical, or medical industries serving rural hospitals;

ii. micromanufacturing;

iii. software, auto regulation, Internet, or telecommunications technologies;

iv. environmental technologies;

v. food technologies; or

vi. advanced materials;

b. a manufacturer whose primary function is identified by NAICS Codes 113310, 211, 213111, 541360, 311-339, 511-512, or 54171;

c. an oil and gas field services business identified by the NAICS Code 213112, that has Louisiana as the national or regional headquarters of a multi-state business whose service territory includes Louisiana and the Gulf of Mexico, with new direct jobs that pay wages not less than \$30,000 per year;

d.i. a business that has, or within one year will have, at least 50 percent of its total annual sales to:

(a). out-of-state customers or buyers;

(b). in-state customers or buyers if the product or service is resold by the purchaser to an out-of-state customer or buyer for ultimate use; or

(c). the federal government;

ii. for contracts not subject to the provisions of Act 387, qualification under this Subparagraph also requires either:

(a). 75 percent of total annual sales to the buyers specified above; or

(b). the nature of the employer's business must fall within one of the following categories:

(i). an industry defined by NAICS codes that have a direct state employer multiplier of 2.0 or greater in accordance with the most current edition of the Regional Input/Output Multiplier System II or its successor;

(ii). a central administrative office that influences the environment in which data processing, customer service, credit accounting, telemarketing, claims processing, and other administrative functions are accomplished;

(iii). data processing, back office operations, and telephone call center operations (NAICS Code 56142);

(iv). a wholesale trade business (NAICS Code 42) with a distribution center of not less than 25,000 square feet;

e. located in a designated distressed region. Such designation shall be maintained during the contract period, including any renewal period. The employer must be located in a distressed region or at least 50 percent of the new direct jobs must be filled by persons residing in a distressed region.

2. Ineligible Businesses. The following employers or persons shall not be eligible for benefits provided under this Chapter:

a. retail employers identified by NAICS Code Sections 44 and 45;

b. business associations and professional organizations identified by NAICS Code 8139;

c. state and local government enterprises;

d. real estate agents, operators, and lessors;

e. automotive rental and leasing;

f. local solid waste disposal, local sewage systems, and local water systems businesses;

g. nonprofit organizations, unless the department determines that the new direct jobs created by the organization would have a significant impact on Louisiana;

h. employers engaged in the gaming industry identified by NAICS Code Sections 713210 and 721120; and

i. attorneys.

3. Payroll

a. The employer must create a minimum of five new direct jobs.

b. If the employer employs more than 50 employees prior to the beginning of the contract, it must have an annual gross payroll for new direct jobs equal to or greater than \$500,000.

c. If the employer employs 50 or fewer employees prior to the beginning of the contract, it must have an annual gross payroll for new direct jobs equal to or greater than \$250,000.

d. The annual payroll for new direct jobs and the minimum number of new direct jobs must be created by the end of the third fiscal year of the contract, or the contract is cancelled and any rebates received must be repaid.

4. Full-time Employee Work Hours

a. For contracts subject to Act 387, the employer must employ full-time employees working 30 or more hours per week in new direct jobs.

b. For contracts prior to Act 387, the employer must employ full-time employees working 35 or more hours per week in new direct jobs. If the employer is a call center (NAICS Code 56142) it must employ full-time employees working 30 or more hours per week in new direct jobs.

5. Health Benefits. The employer must offer, or will offer within 90 days of the contract effective date, a basic health benefits plan or health insurance coverage to the individuals it employs in new direct jobs, in accordance with the following requirements:

a. contract effective dates before June 1, 2000—the employer shall pay not less than 50 percent of the insurance premium;

b. contract effective dates on or after June 1, 2000, but before May 1, 2002—the employer shall pay not less

than 75 percent of the premium for full-time employees. The employer shall offer group coverage for dependents of full-time employees, but the employer is not required to pay the premium;

c. contract effective dates on or after May 1, 2002—the employer shall offer the employee the choice of one of the following:

i. the employer shall pay not less than 85 percent of the total premium for full-time employees choosing to participate under individual coverage and shall offer coverage for dependents of full-time employees, but the employer is not required to pay the premium; or

ii. the employer shall pay not less than 50 percent of the total premium for full-time employees who choose to participate and choose to cover their dependents;

d. for contracts subject to the provisions of Act 387, the health care benefits must be determined by the department to have a value of at least \$1.25 per hour. The department's valuation analysis shall be made in accordance with standard operating procedures which shall be posted on the department's website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2307 (November 2003), amended by the Office of Business Development, LR 37:

§1107. Application Fees, Timely Filing

A. The applicant shall submit an advance notification on the prescribed form before locating the establishment or the creation of any new direct jobs in the state. All financial incentive programs for a given project shall be filed at the same time, on the same advance notification form. An advance notification fee of \$100, for each program applied for, shall be submitted with the advance notification form. An advance notification filing shall be considered by the department to be a public record under Louisiana Revised Statutes, Title 44, Chapter 1, Louisiana Public Records Law, and subject to disclosure to the public.

B. An application for the Quality Jobs Program must be filed with the Office of Business Development, Business Incentives Services, P.O. Box 94185, Baton Rouge, Louisiana 70804-9185 on the prescribed forms within 18 months after the first new direct job is hired; however, no more than 24 months after the department has received the advance notification and fee. Failure to file an application within the prescribed timeframe will result in the expiration of the advance notification. An extension to the advance notification of no more than 6 months may be granted if the applicant requests, in writing, the extension prior to the expiration of the advance notification.

C. An application fee shall be submitted with the application based on the following:

1. 0.2 percent (.002) times the estimated total incentive rebates (see application fee worksheet to calculate);

2. the minimum application fee is \$200 and the maximum application fee is \$5,000 for a single project;

3. an additional application fee will be due if a project's employment or investment scope is or has increased, unless the maximum has been paid.

D. An application to renew a contract shall be filed within 60 days of the initial contract expiring. A fee of \$50 must be filed with the renewal contract.

E. The Office of Business Development reserves the right to return the advance notification, application, or annual certification to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees for advance notifications, applications, or annual certification that have been accepted for eligible projects shall not be refundable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:963 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308 (November 2003), amended by the Office of Business Development, LR 37:

§1109. Application Review and Determination

A. Application Review

1. The department will assign a project number and review the advance notification form to determine if the employer is qualified pursuant to §1105. The employer will be notified of the project number and due date of the application packet. Certification of the employer's primary qualification, on the prescribed form, must be submitted by the applicant, prior to the application being received by the department.

2. The application packet must be completed and returned to the department by the due date. If the application is incomplete, the department may request additional information prior to further action. The application fee must accompany the application packet pursuant to §1107.C.

3. The employer must provide all information requested by the department for purposes of verifying employer qualifications, gross payroll, wages, new direct jobs, and the value of the basic health benefits plan or health insurance coverage, including but not limited to a list of all employees, their positions and wages, and a copy of the basic health benefits plan or health insurance coverage policy.

B. Determination. The department shall determine whether the employer is qualified, the amount of gross payroll, the value of the basic health benefits plan or the health insurance coverage, the number of new direct jobs and the benefit rate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2308 (November 2003), amended by the Office of Business Development, LR 37:

§1111. Consultation with the LWC and the LDR

A. The department will provide a copy of the application and all relative information to the LWC and the LDR for

review. Either the LWC or the LDR or both may require additional information from the applicant.

B. The department must obtain a letter-of-no-objection or a letter-of-approval from the LWC and the LDR, prior to submitting the application to the board for action. Contracts will not be generated or executed until a letter of approval is received from the LWC and LDR.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:964 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003), amended by the Office of Business Development, LR 37:

§1115. Department Recommendations to Board

A. After its review and determination the department will prepare the application information in a format suitable for presentation to the board.

B. The department will make a presentation to the board as to the economic impact and the benefits to be received.

C. The department will make recommendations for approval or disapproval, and will provide information on behalf of the LWC and the LDR.

D. The board must approve the application prior to a contract being issued.

E. Applicant or its representatives will be notified of the board meeting date at which their application will be considered. The applicant should have someone present who is able to answer any questions the board may have regarding the information contained in the application, otherwise, the application may be deferred or denied.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003), amended by the Office of Business Development, LR 37:

§1117. The Contract

A. The board, after no objection from the executive director of the LWC and secretary of the LDR, and with the approval of the governor, may enter into a contract with an employer for a period up to five years.

1. A contract with an employer shall be limited to a single project site and the benefits the employer shall receive will be based upon the operations at that location. An employer may have only one contract in effect for a project site, except as provided below.

2. An employer may have one additional contract in effect for a project site for a subsequent expansion project that is distinct from the project associated with the original contract, and that increases the number of new direct jobs at the site by at least 25 percent. If new direct jobs are not increased by at least 25 percent by the end of the third fiscal year of the additional contract, the contract shall be terminated and all benefits for the site shall be determined under the original contract.

3. An employer may have multiple contracts covering multiple locations. The eligibility of each location shall be determined separately.

4. For each contract, the department shall certify that the employer has a net overall increase in employment statewide for each new direct job.

5. A contract may, with the approval of the board, be transferred to a business entity purchasing and continuing the operation of a project site. Upon such transfer, the employment baseline shall be that of the purchaser during the 45-day period prior to the purchase.

B. The contract may be renewed for an additional five years provided that:

1. the employer has complied with all the terms of the contract;

2. the employer has met the statutory minimum hourly wage for the new direct jobs subject to the benefit rate established when the contract was entered into; and

3. the hourly wage rate has increased by an amount which is no less than the greater of either of the following:

a. the hourly wage rate has grown by the percentage increase in the Consumer Price Index published by the U.S. Department of Labor for the five years of the initial term of the contract, compounded; or

b. the hourly wage rate has increased by 2 percent for each of the five years of the initial term of the contract, compounded annually;

c. the greater of the increases required under items a. and b. above shall become the minimum hourly wage for the renewal contract.

C. No contract shall be executed if:

1. the employer has defaulted, not repaid a loan, or not repaid an obligation involving public funds;

2. the employer declared bankruptcy and the obligation to pay or repay public funds or monies was discharged as part of such bankruptcy a contract shall not be executed; or

3. the employer is in default on any filing or payment to the state, or any of its agencies or political subdivisions, for which an assessment or judgment is final.

D. Contract Voided. Violation of the provisions of §1117.C shall void the contract and any rebates paid to the employer prior to the date the violation is discovered, the rebates will be recovered by adding to the income tax liability for the taxable year the violation occurred. Additionally, interest will be assessed from the date of the violation and the employer shall receive no further rebates.

E. Contract Suspended

1. If a rebate is received by an employer as provided under this provision and the employer is rendered an assessment or judgment that is final and nonappealable in favor of the state or any of its agencies or any of its political subdivisions, the contract shall be suspended pending the settlement of the assessment. No rebate shall accrue to the employer under the contract during the period of suspension.

2. After the employer's fiscal year for which the employer applied for his third annual rebate, if at any other time during the 10-year contract period the employer applies for a rebate following the end of the employer's fiscal year, and the verified gross payroll for the fiscal year does not demonstrate the required minimum of five new direct jobs and the gross payroll does not equal or exceed a total of \$500,000 or \$250,000, whichever is applicable to said contract, the rebates shall be suspended and shall not be resumed until such time as the payroll and job requirements

are met. No rebate shall accrue or be paid to the employer during a period of suspension.

F. Contract Rebates Reduced

1. If the employer receives a rebate and it is subsequently determined the employer did not qualify for the rebate, future rebates will be reduced by the amount received by the employer.

2. If there are no future rebates to deduct the amount owed the state, the tax liability of the employer will be increased by the amount of the rebate for the taxable period non-qualification was determined.

3. The secretary of the LDR may recover any rebates previously granted to an employer but which rebates disallowed as authorized by R.S. 47:1561.2. The employer shall waive prescription for the purpose of recovering any disallowed rebates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2309 (November 2003), amended by the Office of Business Development, LR 37:

§1119. Incentive Rebates

A. Except as otherwise provided herein an employer who has entered into a contract may receive a rebate that is calculated by multiplying the benefit rate times the annual gross payroll.

B. Notwithstanding anything to the contrary in either Chapter 1 or Chapter 5 of Subtitle II of Title 47 of the Louisiana Revised Statutes of 1950, as amended, the following rules shall apply with respect to the application of the rebate allowed.

1. The incentive rebate allowed an S corporation shall be paid to the S corporation entity and not the individual shareholders of the corporation.

2. The incentive rebate allowed a partnership, limited liability partnership (LLP), or limited liability company (LLC) shall be paid to the entity and shall not be paid to the individual partners or members of the entity.

C. Notwithstanding any other provision of law to the contrary in Title 47 of the Louisiana Revised Statutes of 1950, as amended, the secretary of the LDR shall make the rebate.

D. In order to receive the rebate provided for by the contract, an employer shall apply with the department.

1. The application shall be filed on the prescribed form designated by the department and shall contain the required information to determine if the applicant is qualified.

2. The application shall contain a sworn statement, by a duly authorized officer of the employer, listing the names of persons or other entities who have received or who will receive any payment or other consideration from the employer for the purpose of representing the employer in applying for or receiving the benefits of this program.

E. In order to qualify to receive the rebate, the employer applying shall meet the requirements of §1101.B.1 and 2.

F. The department shall determine if an applicant is qualified to receive rebates.

G. The approved employer shall apply annually for rebates with the department in the prescribed format and

provide the information as described in §1123. The employer may be audited by the department to verify eligibility. The rebates may continue as long as the employer complies with the approved contract and remains eligible.

H. The benefit rate shall be determined annually based on information provided by the employer on the rebate claim reports made annually.

I. The payroll rebates shall be paid annually after the employer submits the required annual report as specified in §1123 and the department determines the employer is eligible for the rebate for that fiscal year. The report shall be filed within 90 days following the end of the employer's fiscal year with the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Commerce and Industry, Financial Incentives Division, LR 22:965 (October 1996), amended by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2310 (November 2003), amended by the Office of Business Development, LR 37:

§1121. Rebate Payments

A. In addition to the payroll rebates, an employer shall be entitled to sales and use tax rebates or the investment tax credit as authorized in R.S. 51:1787, if the employer meets the hiring requirements as defined in the Enterprise Zone Program and meets the other limitations, procedures, and requirements of R.S. 51:1787 and the rules promulgated there under, Louisiana Administrative Code, Title 13, Part I, Chapter 7.

B. A request for rebate of local sales and use taxes must be accompanied by an endorsement resolution approved by the governing authority of the appropriate political subdivision from which rebates will be sought. The endorsement resolution must clearly state the local governmental subdivision intends to rebate the allowable sales and use taxes for the project. The resolution must be filed with the department prior to the board taking action on the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2310 (November 2003), amended by the Office of Business Development, LR 37:

§1123. Rebate Claim Filing

A. Payroll Rebate

1. An annual certification and a fee of \$100 shall be filed annually, commencing within six months after completion of the applicant's fiscal year or execution of the contract, whichever is later. The department may grant an extension of up to an additional six months provided the extension is requested prior to the filing deadline. Failure to file an annual certification within the prescribed timeframe may result in the annual rebate being denied or restricted. An annual certification is required in each year the contract is active, irrespective of whether annual rebates are being claimed.

2. The annual report will provide information on the number of employees at the site, the number of employees statewide, the number of new direct jobs created at the site, the number of hours worked by each employee weekly, the hourly wage paid employees in the new direct jobs, the

position title, the employee's address, the hire date, the term date, the insurance acceptability, the percentage of the insurance paid by the employer, and the annual gross wages.

3. The department may request additional information and documentation from the employer as may be necessary to determine the eligibility for the annual rebate for that fiscal year or may request the employer revise the annual report.

4. Upon approval the department will advise the LDR of the eligible rebate. The LDR shall make payment of the rebate after offset, if applicable, under R.S. 47:1622. The rebate shall be considered a refundable overpayment for the purpose of such offset.

5. If the actual verified annual gross payroll for the employer's third fiscal year does not show a minimum of five new direct jobs and does not equal or exceed a total annual payroll for new direct jobs of either \$500,000 or \$250,000, whichever is applicable, the employer will be determined to be ineligible under this Chapter. The LDR will be notified and the tax liability for the current tax period in which the failure to meet the requirements occurs shall be increased by the amount of rebates previously allowed.

6. If the department determines that the employer has large number of employees, multiple locations, or other factors that would cause the number of new direct jobs to be not readily determined, the department may require the employer to obtain a new and separate unemployment compensation number with the LWC for reporting new direct jobs.

B. Sales and Use Tax Rebate or Investment Tax Credit

1. An annual employee certification report must be filed on all active contracts for the employer to qualify for the sales and use tax rebate or investment tax credit under this Chapter. Employers must meet the requirements of the Enterprise Zone legislation and rules to qualify.

2. Sales and Use Tax Rebate or Investment Tax Credit Advance Notification. An employer who receives a Quality Jobs Act contract and who meets the requirements for sales and use tax rebates as authorized in R.S. 51:1787 and §1121 of these rules, will satisfy the advance notification requirement for sales and use tax rebates or investment tax credit for the Quality Jobs Act contract by submission of the Quality Jobs Act Program advance notification referred to in §1107 of these rules. The sales and use tax rebate period shall begin on the contract effective date, unless otherwise provided in the contract, and shall be no longer than 24 months, except to the extent that a longer period is authorized under the Enterprise Zone Program, but shall not extend beyond the term of the Quality Jobs Act contract. In order to receive rebates of local sales and use taxes, the employer must satisfy the provisions of §1121.B of these rules.

3. Subsequent Sales and Use Tax Rebate/Investment Tax Credit Periods. On the expiration of the initial sale and use tax rebate or investment tax credit period under the Quality Jobs Act contract, the employer may file additional advance notifications on Form, "Quality Jobs Act Sales and Use Tax Rebate/Investment Tax Credit Advance Notification," to seek additional state and local sales and use tax rebates or investment tax credits as authorized in R.S. 51:1787 and §1121 of these rules if the employer meets the hiring requirements as defined in the Enterprise Zone

Program and meets the other limitations, procedures, and requirements of R.S. 51:1787 and the rules promulgated thereunder, Louisiana Administrative Code, Title 13, Part I, Chapter 7, for each subsequent sales and use tax rebate or investment tax credit period during the term of the Quality Jobs Act contract. Each subsequent sales and use tax rebate or investment tax credit period shall be no longer than 24 months, except to the extent that a longer period is authorized under the Enterprise Zone Program. The local endorsement resolution requirements of §1121.B shall apply to each subsequent sales and use tax rebate period for which the employer under a Quality Jobs Act contract seeks the rebate of local sales and use taxes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2311 (November 2003), amended by the Office of Business Development, LR 37:

§1125. Prohibited Incentives

A. A qualified employer that enters into a contract under this Chapter shall not be eligible to receive the other credits or exemptions provided for in the following provisions of law except as provided for in R.S. 51:2456(B):

1. R.S. 47:34 (tax credit for generation of new jobs in Louisiana);
2. R.S. 47:38 and 287.757 (income tax credit for conversion of vehicles to alternate fuel usage);
3. R.S. 47:4301 through 4306 (Industry Assistance Program—income tax, corporate franchise tax, state sales tax, and excise tax exemptions for manufacturing establishments);
4. R.S. 47:6004 (employer credit for employment of previously unemployed person);
5. R.S. 47:6009 (Louisiana basic skills training tax credit-income tax credit);
6. R.S. 47:6010 (employer income tax credit for employee alcohol and substance abuse treatment programs);
7. R.S. 51:1787 (Enterprise Zone Program—incentives tax exemption from sales and use tax materials to be used in the construction of a building and for machinery and income tax credit for each employee in an enterprise zone);
8. R.S. 47:287.748 (re-entrant jobs credit for formerly incarcerated employees—corporate income tax);
9. R.S. 47:287.749 (corporate income tax credit for new jobs);
10. R.S. 47:287.753 (neighborhood assistance income tax credit);
11. R.S. 51:2351 et seq. (Technology Commercialization Credit and Jobs Program).

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2311 (November 2003), amended by the Office of Business Development, LR 37:

§1127. Penalties

A. Penalties are provided under R.S. 51:2460 for false or fraudulent information in making application, making a claim for rebate, or other instrument.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2312 (November 2003), amended by the Office of Business Development, LR 37:

§1129. Termination of Program

A. The board shall approve no new applications for rebates as provided for under this Chapter on and after January 1, 2012.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2312 (November 2003), amended by the Office of Business Development, LR 37:

§1131. Severability

A. If any Section or provision of this Chapter is held invalid, such invalidity shall not affect other provisions of this Chapter. Any provision of this Chapter that is in conflict with R.S. 51:2451-R.S. 51:2462 or any other statute will be invalid and will be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2451-2462 et seq.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Business Development, Business Resources Division, LR 29:2312 (November 2003), amended by the Office of Business Development, LR 37:

Family Impact Statement

This proposed Rule should not have any known or foreseeable impact on any family as defined by R.S. 49:972.D, or on family formation, stability and autonomy. There should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and responsibility of children; or
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Public Comments

Interested persons may submit written comments to Frank Favaloro, Louisiana Department of Economic Development, P.O. Box 94185, Baton Rouge, LA 70804-9185; or physically delivered to Capitol Annex Building, Business Incentives Division, First Floor, 1051 North Third Street, Baton Rouge, LA, 70802. Comments may also be sent by fax to (225) 342-9448, or by email to Frank.Favaloro@la.gov. All comments must be submitted (mailed and received) not later than 5 p.m., on November 26, 2010.

Public Hearing

A public hearing to receive comments on the Notice of Intent will be held on November 26, 2009 at 1:00 p.m. at the Department of Economic Development, 1051 North Third Street, Baton Rouge, LA 70802.

Kristy G. McKearn
UnderSecretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Quality Jobs Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no additional costs due to the implementation of the proposed action for either state or local governmental units. The proposed action will not significantly affect the administration of the program or the costs associated with the administration. Local governments are not involved in the administration of the program and should not be affected.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This proposed rule marks the first promulgation of rules related to Act 326, 2005 Regular Session, Act 387, 2007 Regular Session, and certain administrative rules related to the Quality Jobs program. The changes are extensive, and the net revenue effect to the state is indeterminable due to the numerous offsetting impacts listed below. There will be no impact to local governmental units.

Act 326 of the 2005 Regular Session added "medical industries serving rural hospitals" as a category of eligible businesses. Although it would seem that adding a category of eligible businesses would increase the use of the program and decrease revenues, since the enactment of Act 326, no businesses have applied under this category. Therefore LED does not expect a significant impact on revenues as a result of this action.

The Quality Jobs program requires a minimum wage plus a minimum amount of health benefits in order to qualify. This proposed rule marks the first promulgation of rules related to Act 387, 2007 Regular Session, which changed the required wages from at least 1 3/4 times the minimum wage to obtain a 5 percent rebate and 2 1/4 times the minimum wage to obtain a 6 percent rebate to a fixed amount. When Act 387 was passed in 2007, these wage thresholds equated to \$9.01 per hour and \$11.59 per hour because the minimum wage was \$5.15 per hour. In 2009, the minimum wage was increased to \$7.25 per hour, which would have raised the Quality Jobs wage thresholds to \$12.69 per hour and \$16.31 per hour had the old law remained in place. The old law also required the employer to pay health benefits of 85 percent of individual premiums and 50% for family premiums. By comparison Act 387 fixed the wage thresholds at \$13.25 and \$17.85 per hour plus health benefits of \$1.25 per hour for a fixed threshold of \$14.50 per hour and \$19.10 per hour.

The new wage calculation is higher than the old provision making eligibility more difficult to attain. However, the new minimum wage of \$7.25, effective July 24, 2009 would have raised the program's wage thresholds to within 96 percent and 91 percent of the thresholds proposed by the rule anyway. Thus, over time it would have become more difficult to qualify for the program anyway without the wage changes proposed by this rule. However, LED estimates that the overall effect of the change will be to increase revenues.

The proposed rule, per Act 387, changes the required health insurance benefit from 85 percent of premiums for individuals and 50 percent for family to health benefits with a value of at least \$1.25 per hour. The \$1.25 provision is lower than the estimated percentage of premiums making the credit easier to attain and resulting in a decrease in revenues.

The proposed rule, per Act 387, makes changes to an existing category of eligible business. Businesses that have, or will have sales of at least 50 percent to out-of-state customers or to the federal government were eligible with several restrictions under the previous law. These restrictions have

been removed. This will make eligibility under this category significantly easier and result in a decrease in revenue. LED records indicate that two applications have been approved under this category that would not otherwise have qualified.

The proposed rule, per Act 387, adds a new category for businesses located in an area designated by the Department of Economic Development as a distressed region. A large portion of the state, approximately between 1/4 and 1/3 will qualify as a distressed region. Of course, some areas will not be attractive for a business location, however, this category should make qualification much easier and reduce revenues. According to LED records, five applications have been approved for businesses under this category that would not have otherwise qualified.

The proposed rule, per Act 387, removes the prohibition for employers with less than 50 employees entering into contingency contracts with consultants to obtain QJ benefits. Presumably this will make it easier for businesses to qualify for the program and result in a revenue decrease. No contracts have ever been refused as a result of this rule. LED has no other data or statistics regarding this issue, so it is not possible to estimate the amount of the decrease.

The proposed rule changes the definition of full time from 35 to 30 hours per week per Act 387. Previously an employee must have worked an average of 35 hour per week for his wages to be eligible for rebate. Reducing the requirement to 30 hours per week will make it easier for employers to qualify more wages for rebates and should result in a decrease in revenues. LED has no statistical data available from which to estimate the size of the impact.

The proposed rule provides transition rules, per Act 387. Between July 1, 2007 and June 30, 2008, Employers may choose to have their contract under either the old law or new law. Employers with contracts under the old law may choose to convert their contract to the new law at any time. Presumably employers will not convert to the new law unless there is an advantage to do so, so this could result in some decrease in revenue. Approximately 10 employers have chosen to change from pre-Act 387 to Act 387 rules. LED has no data on the exact effect this has had on revenues.

In 2005 and 2006, an average of 25.5 applications per year were approved by the Board. In 2008 and 2009, an average of 33.5 applications per year were approved by the Board. Thus LED has seen an increase in approved applications of eight per year or about 31 percent. It is difficult to determine whether the increase is due solely to the changes made by Act 387, or whether there are other factors involved, such as general economic activity.

Several non-statutory changes are expected to result in a decrease in revenues. These changes include:

1. allowing payroll rebates for new jobs once they meet QJ wage and benefit eligibility requirements, even if the job didn't meet eligibility requirements when initially filled. Previously, if a new job did not meet QJ requirements when it was created, the job could never become eligible for rebates. This provision will allow additional wages to be eligible and should result in a revenue decrease; and

2. allowing a site to have a second QJ contract if it has a significant expansion while under its initial QJ contract. Previously only one contract per site was allowed. This change will allow employers to earn rebates over a longer period of time, for the expansion jobs. The employer may earn rebates on those jobs over a full 10-year period, whereas, before, the employer could only earn rebates over the remaining years of the contract at the time the expansion was implemented. This should result in a revenue decrease, however, the effect will only be realized in future years.

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 105—Louisiana Content Standards for Programs
Serving Four-Year Old Children
(LAC 28:LXXVII.Chapters 1-9)

The proposed rule allows jobs associated with arms length business sales to qualify in certain instances if the facility is out of operation for three months or LED must make a determination that the jobs would have been lost to the state absent the sale. To some extent this represents the implementation of an existing policy, however, previously LED only required the closing of the facility for six weeks, or long enough for the employees to qualify for unemployment benefits. This change will make it more difficult for employers to qualify under this policy, however, only about five contracts over the life of the program have used this policy and all would have qualified under the new rule, so it is doubtful that this change will have any impact on revenues.

The proposed rule changes the determination of baseline jobs from which newly created jobs will be measured. This rule expands the timeframe over which baseline jobs occur from a one day snapshot of all jobs prior to the effective date of the quality jobs contract to a four month Olympic average of all jobs on the project site prior to the effective date of the contract, and using a 45-day average to establish employment baseline for transfers due to a sale of the facility, as opposed to a snapshot single day number which may be either higher or lower. Using a 4-month, or 45-day average job creation has the potential to provide smaller or larger rebates to applicants compared to a one day snapshot depending on whether the company was creating or losing jobs during the 4 months, or 45 days prior to the effective date of the contract. A company may receive fewer benefits if its baseline is higher than the snapshot. However, if a company creates jobs during the period prior to the effective date of the contract, and subsequently loses jobs after the effective date of the contract, it may realize a gain of New Direct Jobs from the lower "Baseline" number if those jobs are replaced rather than from the higher "snapshot" number which would be used under the current rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be minimal reduction in administrative costs for any directly affected persons or non-governmental groups.

Some businesses may lose or gain benefits or realize a reduction or gain in benefits under the new rule vs. the current rule depending on the businesses' unique circumstances. The net amount (across all businesses) of this reduction or gain in benefits will be the same as the increase or decrease in state and local revenue collections as discussed in Section II.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed action is expected to have a minimal effect on competition and employment across the state. It is estimated that less than one percent of Louisiana businesses utilize the Quality Jobs program, so roughly 99 percent of Louisiana businesses, without regard for the size of participating businesses, will see no impact from the new rule. The competitive advantage due to cost mitigation obtained by a business eligible for the credits and rebates of this program may be somewhat increased or decreased under the new rule vs. the current rule depending on the individual business' unique circumstances. However, the net effect across all Louisiana businesses is expected to be minimal.

Kristy G McKearn
Undersecretary
1010#072

Robert E. Hosse
Staff Director
Legislative Fiscal Office

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 105—Louisiana Content Standards for Programs Serving Four-Year Old Children: Chapters 1-9*. It is the policy of the Board of Elementary and Secondary Education that content standards be reviewed and possibly revised at least every seven years. The revisions to *Bulletin 105—Louisiana Content Standards for Programs Serving Four-Year Old Children* are based on latest research and a review of pre-k standards in other states.

Title 28

EDUCATION

Part LXXVII. Bulletin 105—Louisiana Content Standards for Programs Serving Four-Year Old Children

Chapter 1. General Provisions

§101. Introduction

A. *The Louisiana Content Standards for Programs Serving Four-Year-Old Children* document was developed by a committee of educators from across the state. The committee consisted of representatives of higher education institutions, technical colleges, childcare, Head Start, Department of Social Services, and the Department of Health and Hospitals, as well as representatives from local school system administrators and classroom teachers. The standards were designed to address the needs of all children in all settings. There are a number of principles that guided the development of the document. [These *Guiding Principles* were reprinted with permission from the Connecticut State Department of Education Preschool Curriculum Framework and Benchmarks for Children in Preschool Programs (May 1999).]

1. Early learning and development are multidimensional; developmental domains are highly interrelated. Development in one domain influences the development in other domains. For example, children's language skills impact their ability to engage in social interactions. Therefore, developmental domains cannot be considered in isolation of each other. The dynamic interaction of all areas of development must be considered.

2. Young children are capable and competent. All children are capable of positive developmental outcomes. Therefore, there should be high expectations for all young children.

3. There are individual differences in rates of development among children. Each child is unique in the rate of growth and the development of skills and competencies. Some children may have a developmental delay or disability that may require program staff to adapt

expectations of individual children or adapt experiences so that they will be successful in attaining the performance standard. Additionally, each child is raised in a cultural context that may impact a child's acquisition of certain skills and competencies.

4. Children will exhibit a range of skills and competencies in any domain of development. Preschool age children will exhibit a range of skills and competencies in any area of development. All children within an age group should not be expected to master each skill to the same degree of proficiency at the same time.

5. Knowledge of child growth and development and consistent expectations are essential to maximize educational experiences for children and for program development and implementation. Early care and education program staff must agree on what it is they expect children to know and be able to do, within the context of child growth and development. With this knowledge, early childhood staff can make sound decisions about appropriate curriculum for the group and for individual children.

6. Families are the primary caregivers and educators of their young children. Families should be aware of programmatic goals and experiences that should be provided for children and expectations for children's performance by the end of the preschool years. Program staff and families should work collaboratively to ensure that children are provided optimal learning experiences. Programs must provide families with the information they may need to support children's learning and development.

7. Young children learn through active exploration of their environment through children-initiated and teacher-selected activities. The early childhood environment should provide opportunities for children to explore materials and engage in concrete activities, and to interact with peers and adults in order to construct their own understanding about the world around them. There should therefore be a range of approaches to maximize children's learning.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2313 (November 2003), amended LR 37:

§103. Louisiana Content Standards Foundation Skills

A. The Louisiana Content Standards Task Force has developed the following foundation skills, which should apply to all students in all disciplines.

Citizenship—the application of the understanding of the ideals, rights, and responsibilities of active participation in a democratic republic that includes working respectfully and productively together for the benefit of the individual and the community; being accountable for one's choices and actions and understanding their impact on oneself and others; knowing one's civil, constitutional, and statutory rights; and mentoring others to become productive citizens and lifelong learners.

Communication—a process by which information is exchanged and a concept of "meaning" is created and shared between individuals through a common system of symbols, signs, or behavior. Students should be able to communicate clearly, fluently, strategically, technologically, critically, and creatively in society and in a variety of workplaces. This process can best be accomplished through use of the

following skills: reading, speaking, listening, viewing, and visually representing.

Linking and Generating Knowledge—the effective use of cognitive processes to generate and link knowledge across the disciplines and in a variety of contexts. In order to engage in the principles of continual improvement, students must be able to transfer and elaborate on these processes. "Transfer" refers to the ability to apply a strategy or in-content knowledge effectively in a setting or context other than that in which it was originally learned. "Elaboration" refers to monitoring, adjusting, and expanding strategies into other contexts.

Problem-Solving—the identification of an obstacle or challenge and the subsequent application of knowledge and thinking processes, which include reasoning, decision-making, and inquiry in order to reach a solution using multiple pathways, even when no routine path is apparent.

Resource Access and Utilization—the process of identifying, locating, selecting, and using resource tools to help in analyzing, synthesizing, and communicating information. The identification and employment of appropriate tools, techniques, and technologies are essential to all learning processes. These resource tools include pen, pencil, and paper; audio/video materials, word processors, computers, interactive devices, telecommunication, and other emerging technologies.

NOTE: These foundation skills were developed by the Louisiana Content Standards Task Force in 1997. This task force developed the State Standards for Curriculum Development for kindergarten through grade 12.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2314 (November 2003), amended LR 37:

§105. Information Literacy Model for Lifelong Learning

A. Students must become competent and independent users of information to be productive citizens of the 21st century. They must be prepared to live in an information-rich and changing global society. Due to the rapid growth of technology, the amount of information available is accelerating so quickly that teachers are no longer able to impart a complete knowledge base in a subject area. In addition, students entering the workforce must know how to access information, solve problems, make decisions, and work as part of a team. Therefore, information literacy, the ability to recognize an information need and then locate, evaluate, and effectively use the needed information, is a basic skill essential to the 21st century workplace and home. Information literate students are self-directed learners, who, individually or collaboratively, use information responsibly to create quality products and to be productive citizens. Information literacy skills must not be taught in isolation; they must be integrated across all content areas, utilizing fully the resources of the classroom, the school library media center, and the community. The Information Literacy Model for Lifelong Learning is a framework that teachers at all levels can apply to help students become independent lifelong learners.

1. *Defining/Focusing*. The first task is to recognize that an information need exists. Students make preliminary decisions about the type of information needed based on prior knowledge.

2. Selecting Tools and Resources. After students decide what information is needed, they then develop search strategies for locating and accessing appropriate, relevant sources in the school library media center, community libraries and agencies, resource people, and others as appropriate.

3. Extracting and Recording. Students examine the resources for readability, currency, usefulness, and bias. This task involves skimming or listening for key words, "chunking" reading, finding main ideas, and taking notes.

4. Processing Information. After recording information, students must examine and evaluate the data in order to utilize the information by categorizing, analyzing, evaluating, and comparing for bias, inadequacies, omissions, errors, and value judgments. Based on their findings, they either move on to the next step or do additional research.

5. Organizing Information. Students effectively sort, manipulate, and organize the information that was retrieved. They make decisions on how to use and communicate their findings.

6. Presenting Findings. Students apply and communicate what they have learned (e.g., research report, project, illustration, dramatization, portfolio, book, book report, map, oral/audio/visual presentation, game, bibliography, hyper stack).

7. Evaluating Efforts. Throughout the information problem solving process, students evaluate their efforts. This assists students in determining the effectiveness of the research process. The final product may be evaluated by the teacher and other qualified or interested resource persons.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2314 (November 2003), amended LR 37:

Chapter 3. PreKindergarten Content Standards

Subchapter A. General

§301. Content Standards

A. This Section contains content standards, which are organized alphabetically into six domains of development:

1. approaches to learning;
2. cognitive development:
 - a. mathematical development;
 - b. science development;
 - c. social studies development;
3. creative arts development;
4. health and physical development;
5. language and literacy development;
6. social and emotional development.

B. The six developmental domains are designed to be interdependent and must be considered as a whole when considering the development of prekindergarten children. Each developmental domain includes the following.

1. *Standard*—the overarching goal for each content area
2. *Indicator*—defines the standard more specifically in each content area
3. *Grade-level Expectation (GLE)*—describes what children should know and be able to do by the end of prekindergarten
4. *Link*—Each content standard is aligned with the Louisiana K-4 Content Standards and other relevant state and national standards.

C. The content standards and grade-level expectations provide the prekindergarten personnel with a common understanding of what young children should know and do. It is designed to be a guide for designing and implementing a curriculum that will facilitate learning and skill acquisition in each prekindergarten child. Skills such as letters, numbers, shapes, colors, etc., should not be taught in isolation, but integrated throughout the curriculum.

D. The content standards, indicators, and grade-level expectations are based on research in developmentally appropriate practice for preschool children. In developing these standards, the *Head Start Performance Standards* and the *Early Childhood Environment Rating Scale, Revised Edition (ECERS-R)* were reviewed and linked to the appropriate content standards.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2316 (November 2003).

§303. Developmentally Appropriate Practices

Developmentally Appropriate Practices Include:	Developmentally Appropriate Practices Do Not Include:
• Learning centers/Free choice centers	• Timed rotation/Teacher selected
• Concrete learning experiences with real items	• Workbooks or ditto sheets
• Balance of student-initiated and teacher-directed activities in instructional day	• Teacher-directed activities more than 25-35% of the instructional day
• Actively engaged learners	• Passive quiet learners
• Language and talking encouraged daily	• Classrooms quiet most of the day
• Cozy inviting environments	• Sterile cold environments
• Daily outdoor gross motor time/Adults interacting with the children to facilitate learning	• Recess/Adults are On Duty
• Individual creative art expressions	• Patterned art/Uniform Art projects (all look the same)
• Language/Literacy rich activities encourage phonological awareness	• Alphabet letters taught through rote drill or Letter of the week
• Hands-on math activities	• Rote drill of numbers, shapes, colors, etc.
• Use a variety of materials changed frequently to meet the needs and interests of the children	• Same materials and equipment used daily throughout the school year
• Adult-Child Interactions encourage learning through open-ended questions, extending conversations, reasoning, etc.	• Adult-Child Interactions minimal, unpleasant, non-responsive, inappropriate, or only to control behavior
• Use of TV, videos and computers related to classroom events, appropriate, limited to short periods of time and adult interaction occurs	• TV, videos, and computers not related to classroom events, used inappropriately, no alternative activities are used, and no adult interaction occurs
• Teacher uses a variety of strategies and meaningful activities to develop skills and concepts	• Teacher uses direct instruction to teach and isolates the skills and concepts
• Assessment ongoing/Portfolios used that include anecdotal records, work samples, photographs, etc.	• Isolated testing/Worksheets

NOTE: For more Developmentally Appropriate Practices refer to ECERS-R, NAEYC guidelines, and Bulletin 741.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2317 (November 2003), amended LR 37:

Subchapter B. Approaches to Learning

§305. Rationale

A. Approaches to learning are behaviors and attitudes that show how children learn and acquire knowledge. Children vary in their learning styles and how they express their approaches to learning. Research has shown that children with positive approaches to learning have an increased academic and social-emotional competence. These children did better in reading and mathematics in kindergarten and first grade, were twice as likely to score in the top 25 percent in reading and mathematics, and had more positive and constructive interactions with others.

B. Commonly cited components of approaches to learning include children's:

1. Intrinsic motivation to learn
2. Interest and joy in learning
3. Initiative
4. Engagement
5. Persistence
6. Ability to plan, focus, and control attention
7. Flexible problem-solving
8. Inventiveness
9. Tolerance for frustration
10. Ability to connect and apply past learning to new experiences.

C. As children apply these approaches to learning, they can carry their new knowledge and abilities to a higher level of mastery and develop skills to become life-long learners.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§307. Guiding Practices

A. Effective prekindergarten programs:

1. Provide purposeful and meaningful child-initiated activities

2. Support children's play through a well-planned environment

3. Help children feel successful by supporting individual differences

4. Facilitate children's discovery of their own learning capacities and styles

5. Model enthusiasm for new learning processes and projects

6. Encourage children to try new things and use materials in different ways

7. Encourage children to think about things from different perspectives

8. Use open-ended questions as means to further learning

11. Prompt children to investigate, act on ideas, and communicate their thoughts

12. Help children work together on projects or solve problems.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§309. Strategies to Support an Inclusive Learning Environment

A. Provide visual and verbal prompts to help children move through a problem-solving or planning process

B. Purposefully guide children to work and play together

C. Help children focus their attention by providing activities or materials that are of interest to them, and encourage them to stay focused on an activity

D. Break problems and tasks into smaller or shorter pieces ("chunking").

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§311. Reasoning and Problem-Solving

Standard: Develop learning and thinking skills through gaining, refining, and applying knowledge		
Head Start Performance Standards: 1304.21(a)(1); (a)(3); & (a)(4) 1304.21(c)(1)(i); & (c)(1)(ii) <i>ECERS-R</i> Items: 16, 17, & 18		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Demonstrate an intrinsic motivation to learn by displaying interest in real world experiences	<ul style="list-style-type: none"> • Use a magnifying glass to look at lines on leaves • In dramatic play, look at a wok and ask, "What is this?" • While reading a book about Louisiana, ask, "What's a beignet?"
	2. Demonstrate the ability to think systematically and use reasoning skills	<ul style="list-style-type: none"> • Make a prediction about what might happen next in a story • Decide what might happen if two colors of playdough are combined based on what s/he observed when two colors of paint were combined • Respond to "what if" questions and give reason(s)for answer
	3. Use a variety of strategies to investigate possible solutions when problem-solving	<ul style="list-style-type: none"> • Ask, "What made the dough smell different?" after a teacher adds peppermint oil to play dough • Use touch and smell to determine what a teacher has hidden in a bag • Observe a friend crying and try to determine what is wrong • Find a broken toy and seek assistance from teacher about the best way to fix it
	4. Approach tasks and experiences with flexibility, imagination, and inventiveness to create new ideas outside of his/her own experience	<ul style="list-style-type: none"> • After being read a book about space, spontaneously create a rocket ship out of blocks and pretend to "blast off" to the moon • Use play-dough to make pretend objects, such as jewelry, food, or press-on fingernails • Try using a rubber band to hold two sticks together after discovering that tape would not hold them together
	5. Discuss ideas and experiences with others, utilizing any form of communication	<ul style="list-style-type: none"> • While lining up next to each other, say or gesture, "I'm taller than you!" • Bring a collection of things from home and share with classmates • Mix blue and red paint and communicate to a friend that they make purple • Use measurement words (such as size, shape) at the water table to discuss the characteristics of containers
	6. Reflect on investigations and their results by making observations and possibly forming new ideas	<ul style="list-style-type: none"> • Recognize that a friend's mom is pregnant after his/her own mom recently had a baby • Change the base of his/her block structure when the tower continues to fall • Talk about painting with a brush earlier that day and say, "Maybe tomorrow I can use my fingers, instead!" • While putting on a fire hat, girl tells boys, "Women can be fire people, too, because I saw it on TV!"

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§313. Initiative, Engagement, and Persistence

Standard: Demonstrate initiative, engagement, and persistence in learning		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Show curiosity and interest in learning new things and trying new experiences	<ul style="list-style-type: none"> • Explore on his/her own, e.g., pick up class pet for the first time or collect objects to test if they are magnetic • Experiment with different art materials to make a self-portrait • Taste guacamole after learning about avocados • Ask to join a group playing with a mixture of cornstarch and water ("goop")
	2. Demonstrate initiative and independence in selecting and carrying out activities	<ul style="list-style-type: none"> • Bring binoculars outside to look more closely at a bird building a nest • After a field trip to the grocery store, organize classroom play food and food boxes to create a grocery store • Bring art materials to a group building a castle in the block area to add on a bridge

Standard: Demonstrate initiative, engagement, and persistence in learning		
Indicator	Grade-level Expectation	Examples
	3. Maintain attention in child-initiated and teacher-initiated activities for short periods of time, despite distractions and interruptions	<ul style="list-style-type: none"> • Continue to attend to a story being read when someone enters the room • Work to complete a puzzle, even after a friend interrupts and asks him/her to play in another area • Put away the art materials, despite others preparing to go outside • Say, "I'll do it!", even though the teacher offered to help
	4. Demonstrate an increasing ability to plan and work towards completion of tasks and activities, even when faced with frustration because the task or activity is difficult	<ul style="list-style-type: none"> • Identify and collect materials (e.g., plastic farm animals, blocks, people figures, or tractors) to create a farm in the block area • Select paper and marker to create a sign for a store in the dramatic play area • Ask a teacher where to leave a clay structure so that it can be painted later • Continue to try to cross the monkey bars, even after having fallen off • Make repeated efforts to rebuild a block structure that keeps falling down • Work with the teacher to decide what objects to use in an obstacle course on the playground, and help put objects in place

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§315. Curiosity and Eagerness to Learn

Standard: Engage in play-based learning for sustained periods of time to acquire knowledge about themselves and their world		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Make choices about play activities, materials, and playmates/companions	<ul style="list-style-type: none"> • Choose one ball out of a variety of balls that will fit through the ball hoop on the playground • Given five options for activity/play centers, make a choice of where to play • Pick a friend to play "Mama Bear" when reenacting a story in the dramatic play area
	2. Engage in unfamiliar activities during Play	<ul style="list-style-type: none"> • Try to put together a new interlocking puzzle in the puzzle center • Seek assistance when attempting to learn how to swing • Experiment with magnets
	3. Use prior knowledge and experiences to learn new skills during play	<ul style="list-style-type: none"> • Say, "May I take your order?" in dramatic play, then write or pretend to write it down • Attempt to make a stop sign, so children won't knock down block structure • After a field trip to the fire station, put on firefighter hat and pretend to put out a fire • Find or collect props to retell the story, "The Three Little Pigs"
	4. Use manipulatives and other hands on materials to learn concepts and skills related to core content areas	<ul style="list-style-type: none"> • Use a scarf to symbolize wind blowing • Use play-dough to make letters • Use a collection of leaves to compare and discuss size • Weigh two apples to decide which one is heavier • Use materials and/or puppets to recreate a story
	4. Use manipulatives and other hands on materials to learn concepts and skills related to core content areas	<ul style="list-style-type: none"> • Use a scarf to symbolize wind blowing • Use play-dough to make letters • Use a collection of leaves to compare and discuss size • Weigh two apples to decide which one is heavier • Use materials and/or puppets to recreate a story
	5. Describe play experiences using English or another language or another mode of communication	<ul style="list-style-type: none"> • During center activities, describe "creations" when asked about art work, block structures, and other creative work • Use home language to communicate to a parent what he/she played with that day • Explain what friends are arguing about in the dramatic play area • Use signs to communicate that he/she played the role of "mother" during a classroom skit

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Subchapter C. Mathematics

§317. Mathematical Development

A. Young children develop mathematical concepts through meaningful and concrete experiences that are broader in scope than numerals and counting. In an inclusive, developmentally appropriate play-based environment, prekindergarten children will have opportunities to acquire and understand mathematical skills and concepts using hands-on experiences. They will have access to a wide variety of tools and technologies that foster the understanding of mathematics in real-life situations.

B. Early childhood teachers must be flexible during daily routines and strive to capture teachable moments using open-ended questioning techniques to expand mathematical concepts. These teachers must also facilitate activities that address and extend young children's developmental levels.

C. Strategies to support an inclusive learning environment

1. simplify a complicated task by breaking it into smaller parts or reducing the number of steps;
2. use shorter but more frequent activities and routines;
3. add new activities and specific activities as needed to meet individual needs.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§319. Stages of Math Development

A. 2-3 Year-Olds:

1. begin to understand the use of numbers as they hear others using them;
2. understand the use of numbers through exploring objects;
3. work large-piece puzzles;
4. understand direction and relational words;

5. recognize geometric shapes, like a circle;
 6. sequence up to three items.
- B. 3-4 Year-Olds:
1. recognize and express quantities like *some, more, a lot, and another*;
 2. begin to have a sense of time;
 3. recognize familiar geometric shapes in the environment;
 4. sort objects by one characteristic;
 5. rote count to 5;
 6. notice and compare similarities and differences;
 7. use words to describe quantity, length, and size.
- C. 4-5 Year-Olds:
1. play number games with understanding;
 2. count objects to 10 and sometimes to 20;
 3. identify the larger of two numbers;
 4. answer simple questions that require logic;
 5. recognize more complex patterns;
 6. position words;
 7. sort forms by shape;
 8. compare sizes of familiar objects not in sight;
 9. work multi-piece puzzles.
- D. 5-6 Year-Olds:
1. begin to understand concepts represented in symbolic form;
 2. can combine simple sets;
 3. begin to add small numbers in their heads;
 4. rote count to 100 with little confusion;
 5. count objects to 20 and more;
 6. understand that the number is a symbol that stands for a certain number of objects;
 7. classify objects by multiple attributes;
 8. can decide which number comes before, or after, another number.

Source: The Portfolio and Its Use: A Road Map for Assessment by Southern Early Childhood Association

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§321. Mathematical Development--Number and Number Relations

Standard: Understand numbers, ways of representing numbers, and relationships between numbers and numerals		
Louisiana K-4 Content Standards: N-1-E & N-9-E ECERS-R, Items: 26 Head Start, etc. Performance Standards: 1304.21(a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CM-N1* Compare numbers of objects	5. Compares sets of objects using same/different and more/less/fewer	<ul style="list-style-type: none"> • Compare number of boys to girls • unifix towers to each other • names of numbers in play, such as "I need two more blocks" • Compare objects in groups, such as shoes that tie and do not tie <p style="text-align: right;">Compare Begin to use</p>
PKCM-N2 Perform one-to-one correspondence	2. Count a set of 5 or fewer objects using 1 to 1 correspondence between number names and objects	<ul style="list-style-type: none"> • snacks to each child • Put pegs in each hole of pegboard <p style="text-align: right;">Set the table Hand out</p>
PK-CM-N3 Count by rote	1. Count by ones to 10	<ul style="list-style-type: none"> • songs • Count in rhymes, fingerplays, poems, or stories <p style="text-align: right;">Sing counting</p>

Standard: Understand numbers, ways of representing numbers, and relationships between numbers and numerals		
Louisiana K-4 Content Standards: N-1-E & N-9-E <i>ECERS-R</i> , Items: 26 Head Start, etc. Performance Standards: 1304.21(a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CM-N4 Begin to count objects	2. Count a set of 5 or fewer objects using 1 to 1 correspondence between number names and objects	<ul style="list-style-type: none"> manipulatives on the calendar children to line up for field trip Count the number of children present each day
PK-CM-N5 Begin to recognize numerals	4. Identifies numerals 1-5	<ul style="list-style-type: none"> numerals in their environment between letters and numerals by sorting games
PK-CM-N6 Begin to demonstrate estimation skills	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> Estimate how many scoops of sand will fill a pail Place a small number of items in a see-through container and ask children to estimate number and record the estimate Estimate how many eggs fit in a strawberry basket
*PK-CM-N -Prekindergarten– Cognitive Math – Number Concepts		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§323. Mathematical Development—Measurement

Standard: Use non-standard units to measure and make comparisons		
Louisiana K-4 Content Standards:, M-1 -E; M-2-E; M-3-E; M-4-E; & M-5-E <i>ECERS-R</i> Items: 26 Head Start, etc. Performance Standards:1304.21(a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
-PK-CM-M1* Experience, compare, and use language relating to time	7. Use words such as day/week, month, schedule, morning, noon, night	<ul style="list-style-type: none"> to use words to describe time intervals, such as yesterday, today, and tomorrow different types of timers Participate in discussions about the daily schedule
PK-CM-M2 Anticipate, remember, and describe sequences of events	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> sequential events in a story and/or activity daily schedule Count down days to an event
PK-CM-M3 Use mathematical language to describe experiences involving measurement	6. Use comparative vocabulary in measurement settings (long/longer, more/less, short/shorter, bigger/smaller, hotter/colder, heavier/lighter)	<ul style="list-style-type: none"> Use comparison terms, such as heavy/light, long/short, more/less, or big/little
PK-CM-M4 Measure objects in the physical world using non-standard units of measurement	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> hands to measure objects Use string to measure child’s height or circumference of an object, such as pumpkin, watermelon, or orange
*PK-CM-M — Prekindergarten – Cognitive Math – Measurement		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§325. Mathematical Development—Geometry

Standard: Develop an understanding of geometrical and spatial concepts		
Louisiana K-4 Content Standards: G-1-E; G-2-E; & G-4-E, ECERS-R Items: 26 , Head Start Performance Standards: 1304.21(a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CM-G1* Recognize, name, describe, compare, and create basic shapes.	8. Identify rectangles, squares, circles, and triangles using concrete models.	<ul style="list-style-type: none"> Combine unit blocks to make shapes Go on shape scavenger hunt Use shapes to make pictures
PK-CM-G2 Identify shapes to describe physical world	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> Identify shapes of objects in the environment, such as the classroom door is a rectangle Identify roof in photo of house as a triangle
PK-CM-G3 Describe and interpret spatial sense: positions, directions, distances, and order	3. Identify an object’s position as first or last 10. Use words that indicate direction and position of an object (up, down, over, under, above, below, beside, in, out, behind). 11. Recognize and manipulate an object’s position in space.	<ul style="list-style-type: none"> Describe the position of people or things in relation to self or other objects Give and follow directions using positional words Describe the movement of objects, such as “The dog jumped over the fence”
PK-CM-G — Prekindergarten – Cognitive Math – Geometry and Spatial Sense		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§327. Mathematical Development—Data Analysis

Standard: Investigate, organize, respond, and create representations		
Louisiana K-4 Content Standards: P-1-E; P-2-E; P-3-E; D-1-E; D-2-E; D-3-E; & D-4-E ECERS-R Items: 26 Head Start Performance Standards: 1304.21(a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CM-D2 Collect and organize data about themselves, their surroundings, and meaningful experiences	12. Arrange objects/pictures to make an object or picture graph	<ul style="list-style-type: none"> Create simple graphs (picture, bar, representational, Venn diagrams), such as leaves by type or favorite ice cream Use webbing to collect information
PK-CM-D3 Interpret simple representations in data	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> Participate in discussion about the calendar Participate in discussion using information from child-created graphs Participate in discussion about charts
PK-CM-D — Prekindergarten – Cognitive Math – Data Collection, Organization, and Interpretation		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§329. Mathematical Development--Patterns and Relationships

Standard: Identify and create patterns		
Louisiana K-4 Content Standards: P-1-E & P-3-E ECERS-R Items: 26 Head Start Performance Standards: 1304.21(a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CM-P1* Recognize patterns in the physical world	13. Recognize and copy repeated patterns (concrete objects, songs, rhymes, and body movements)	<ul style="list-style-type: none"> Go on shape walks to identify patterns in environment Recognize patterns in snack kabobs Identify patterns on common objects, such as flag, clothes, or environmental patterns
PK-CM-P2 Describe, copy, extend, create patterns and make predictions about patterns	13. Recognize and copy repeated patterns (concrete objects, songs, rhymes, and body movements)	<ul style="list-style-type: none"> Line up boy, girl, boy, girl ... Clap out patterns Make patterns with manipulatives, such as lacing beads, unifix cubes, or links Tell what comes next in a pattern Create musical patterns playing music on cans
PK-CM-P3 Seriate objects	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> Place blocks in order from shortest to tallest Place colored bears in order from smallest to largest
*PK-CM-P –Prekindergarten – Cognitive Math – Patterns and Relationships		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2318 (November 2003).

Subchapter C. Science

§331. Scientific Development

A. Young children are natural scientists. They easily become mesmerized by everyday happenings. Through varied and repeated opportunities to predict, observe, manipulate, listen, experiment with, reflect, and respond to open-ended questions, prekindergarteners make inferences and become higher-level thinkers.

B. Quality early childhood science programs require a balance of content and process, using multi-sensory experiences. In addition to science inquiry skills, prekindergarteners can begin to acquire a foundation of science concepts and knowledge on which they can build a clear understanding of their world. Early childhood teachers

should look for opportunities to explore scientific concepts in all content areas.

C. Strategies to support an inclusive learning environment:

1. simplify a complicated task by breaking it into smaller parts or reducing the number of steps;
2. use shorter but more frequent activities and routines;
3. add new activities and specific activities as needed to meet individual needs.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§333. Scientific Development—Inquiry

Standard: Begin to engage in partial and full inquiries		
Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4, A5, A6 SI-E-B1, B2, B3, B4, B5, B6 ECERS-R Items: 25 Head Start Performance Standards: 1304.21(a)(2)(ii) 1304.21(a)(4)(i)		
Indicator	Grade-level Expectation	Examples
PK-CS-I1 Use prior knowledge and experiences to hypothesize, predict, generate questions, and draw conclusions about organisms and events in the environment.	1. Ask questions about objects and events in the environment (e.g., plants, rocks, storms) 2. Pose questions that can be answered by using students' own observations and scientific knowledge	<ul style="list-style-type: none"> • Generate questions about insects (KWL or Experience Charts) • Engage in spontaneous discussion (teachable moments) • Engage in discussion through questioning, after reading a nonfiction science book • Hypothesize or predict why certain phenomenon occurred
PK-CS-I2 Conduct simple scientific investigations	16. Explore the motion of objects by using balls, toy cars, or spinning tops	<ul style="list-style-type: none"> • melting • rolling down a ramp • Compare objects that sink and float <p style="text-align: right;">Observe ice Compare cars</p>
PK-CS-I3 Make observations using senses	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> • Taste test a variety of foods and describe tastes • Describe objects in feely box • Describe changes in weather
PK-CS-I4 Employ equipment and tools to gather data and extend sensory observations	4. Select and use developmentally appropriate equipment and tools and units of measurement to observe and collect data 7. Identify and use appropriate safety procedures and equipment when conducting investigations (e.g., gloves, goggles, hair ties) 8. Recognize that a variety of tools can be used to examine objects at different degrees of magnification (e.g., hand lens, microscope) 12. Determine whether one object weighs more or less than another by using a pan balance	<ul style="list-style-type: none"> • sieve to find organisms in soil • objects using color paddles • Balance objects in scale to determine which is heavier or lighter <p style="text-align: right;">Sift soil with Observe</p>
PK-CS-I5 Collect, interpret, communicate data and findings from observations and experiments in oral and written formats	5. Express data in a variety of ways by constructing illustrations, graphs, charts, tables, concept maps, and oral and written explanations as appropriate 6. Use a variety of appropriate formats to describe procedures and to express ideas about demonstrations or experiments (e.g., drawings, journals, reports, presentations, exhibitions, portfolios)	<ul style="list-style-type: none"> • scientific information in a variety of ways (e.g. graph, tally, web, draw pictures, oral report) • of objects in the environment • Participate in discussions where points of view are openly shared <p style="text-align: right;">Communicate Create models</p>
PK-CS-I6 Use appropriate scientific vocabulary related to topics	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> • common physical changes of melting, freezing, and evaporating • Identify the life cycle of a butterfly using scientific terms (e.g. egg and chrysalis) <p style="text-align: right;">Describe the</p>

Standard: Begin to engage in partial and full inquiries		
Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4, A5, A6 SI-E-B1, B2, B3, B4, B5, B6 ECERS-R Items: 25 Head Start Performance Standards: 1304.21(a)(2)(ii) 1304.21(a)(4)(i)		
Indicator	Grade-level Expectation	Examples
*PK-CS-I –Prekindergarten – Cognitive Science – Inquiry		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§335. Scientific Development—Physical Science

Standard: Begin to acquire scientific knowledge related to physical science		
Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4 SI-E-B1, B2, B3, B4, B5 PS-E-A1, A2, A3, A4 PS-E-C6, C7 ECERS-R Items: 25 Head Start Performance Standards: 1304.21(a)(2)(ii) 1304.21(a)(4)(i)		
Indicator	Grade-level Expectation	Examples
PK-CS-P1 Begin investigating states of matter: solids, liquids, and gases	10. Determine whether objects float or sink through investigations 13. Compare the properties of different solids and liquids through observation 14. Identify components of simple mixtures (e.g., salt/water, rice/beans, iron filings/sand)	<ul style="list-style-type: none"> Sort and classify objects by their state of matter Participate in block play using a variety of types of blocks (e.g. wooden unit blocks, cardboard blocks, foam blocks) Participate in a variety of sand and water activities Observe what happens to objects when filled with gases Explore three states of water: ice (solid), water (liquid), and steam (gas)
PK-CS-P2 Describe objects by their physical properties	9. Sort objects using one characteristic 18. Identify selected substances as <i>hot</i> or <i>cold</i>	<ul style="list-style-type: none"> Describe objects according to size, shape, color, or state of matter Describe characteristics of sand and water during sand and water play Describe what happens when bottles filled with objects suspended in liquids are moved in various ways such as: dirt in water or confetti in Karo syrup
PK-CS-P3 Explore the physical world using five senses	3. Use the five senses to describe observations 15. Demonstrate motion by using students' own bodies 17. Identify different sounds as <i>soft</i> or <i>loud</i>	<ul style="list-style-type: none"> Take a walk exploring the environment using the senses of sight, touch, smell, and/or sound -- describe findings Match things during a tasting, touching, smelling party Listen to and identify environmental, animal, or voice sounds
PK-CS-P4 Explore simple machines, magnets, and sources of energy	11. Describe properties of materials by using observations made with the aid of equipment such as magnets, magnifying glasses, pan balances, and mirrors	<ul style="list-style-type: none"> Explore magnets, magnifying glasses, balance scales, gears, pulleys, mirrors, and wind-up toys Discuss what makes things run by answering open-ended questions (e.g. car-gas, waterwheel-water, lamp-electricity)
*PK-CS-P –Prekindergarten – Cognitive Science – Physical Science		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§337. Scientific Development—Life Science

Standard: Begin to acquire scientific knowledge related to life science		
Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4 SI-E-B1, B2, B3 PS-E-A1, A2, A3, A4 PS-E-C6, C7 LS-E-A1, A2, A6 LS-E-B1 ECERS-R Items: 25 Head Start Performance Standards: 1304.21(a)(2)(ii) 1304.21(a)(4)(i)		
Indicator	Grade-level Expectation	Examples
PK-CS-L1 Explore, observe, and describe a variety of living things	19. Identify parts of the body and how they move 20. Give examples of different kinds of plants and different kinds of animals 21. Distinguish food items from nonfood items 22. Learn about animals and plants through nonfiction literature 23. Observe and care for pets and plants 24. Describe plants and animals in the schoolyard or home environments	<ul style="list-style-type: none"> Catch insects and place in bug catchers Use magnifying glass to observe insects Keep a class pet and/or plants in the classroom Observe the effect of darkness and light on growing plants
PK-CS-L2 Explore, observe, and describe a variety of non-living things	25. Explore and describe various properties of rocks, minerals, and soils	<ul style="list-style-type: none"> Compare live insects to plastic insects Collect non-living things, such as rocks, seashells, or buttons Sort examples of living and nonliving things

Standard: Begin to acquire scientific knowledge related to life science		
Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4 SI-E-B1, B2, B3 PS-E-A1, A2, A3, A4 PS-E-C6, C7 LS-E-A1, A2, A6 LS-E-B1 <i>ECERS-R</i> Items: 25 Head Start Performance Standards: 1304.21(a)(2)(ii) 1304.21(a)(4)(i)		
Indicator	Grade-level Expectation	Examples
PK-CS-L3 Explore, observe, describe, and participate in a variety of activities related to preserving their environment	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> in constructing a compost heap in planting a tree in a campus cleanup day Participate in collecting items to recycle
PK-CS-L4 Begin to develop an awareness and understanding of plant and animal life cycles and how the life cycles vary for different reasons	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> maintain a butterfly garden fiction age appropriate books about life cycles Observe life cycles of larvae, tadpoles, or mealworms
PK-CS-L –Prekindergarten – Cognitive Science – Life Science		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§339. Scientific Development—Earth Science

Standard: Begin to acquire scientific knowledge related to earth science		
Louisiana K-4 Content Standards: SI-E-A1, A2, A3, A4 SI-E-B1, B2, B3, B4, B5 ESS-E-A1, A4 ESS-E-B1 <i>ECERS-R</i> Items: 25 Head Start Performance Standards: 1304.21(a)(2)(ii) 1304.21(a)(4)(i)		
Indicator	Grade-level Expectation	Examples
PK-CS-ES1 Investigate, compare, and contrast seasonal changes in their immediate environment	9. Sort concrete objects by attribute (shape, size, color)	<ul style="list-style-type: none"> write, and/or dictate a message in journal about what they see, feel, and do in certain kinds of weather or over a period of time up in a variety of seasonal clothing in the dramatic play center lotto game about the seasons
PK-CS-ES2 Discover through observation that weather can change from day to day	26. Describe the weather and its daily changes 27. Describe different types of weather students have experienced and give examples of how daily activities and appropriate attire are affected by weather conditions	<ul style="list-style-type: none"> Graph each day's weather Keep weather journal Read a thermometer to determine temperature Keep a record of the day's temperature either from the ewspaper, home, or outside thermometer
PK-CS-ES3 Use vocabulary to describe major features of the earth and sky	28. Learn about objects in the sky through nonfiction literature	<ul style="list-style-type: none"> Listen to and retell stories about the earth, sky, land formations, and bodies of water such as: <i>In the Night Sky, Happy Birthday Moon, Good Night Moon, In a Small, Small Pond, In the Tall, Tall Grass, Swimmy, Big Al, The Tiny Seed</i> Discuss things in the day and night time sky Observe and discuss shadows at various times of the day
*PK-CS-ES –Prekindergarten – Cognitive Science – Earth Science		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2321 (November 2003).

Subchapter D. Social Studies

§341. Social Studies Development

A. For young children the foundation for learning in social studies and history begins with the child's personal experiences and understanding of the relationship of self to home and family. Their understanding then gradually expands to include the people they meet in school, neighborhood, community, and the larger world. Teachers need to identify children's current knowledge and understanding. The prekindergarten curriculum needs to

focus on concepts that are related to the child's immediate experience.

B. Strategies to support an inclusive learning environment:

- provide adaptive equipment and materials where needed to accommodate children's special needs;
- assure that the classroom and school environments are handicapped accessible and meet the needs of all children;
- use appropriate verbal, visual, and physical cues in all the activities to meet the special needs of all the children.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§343. Social Studies Development—Geography

Standard: Develop an understanding of location, place, relationships within places, movement, and region		
Louisiana K-4 Content Standards: G-1B-E1 <i>ECERS-R</i> Items: 22 Head Start Performance Standards: 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CSS-G1 Include representations of roads, bodies of water, and buildings in their play	1. Identify representations of roads, bodies of water, and buildings in play activities	<ul style="list-style-type: none"> Use blue paper for a lake in the block area Drive toy cars on roads made from blocks
PK-CSS-G2 Use words to indicate directionality, position, and size	<i>No corresponding GLE</i>	<ul style="list-style-type: none"> Correctly use and respond to words, such as <i>left, right, first, last, big, little, top, or bottom</i> Verbalize location of objects that are hidden during a Hide and Seek game
PK-CSS-G3 Develop awareness of the world around them	2. Demonstrate an awareness of the world around them (e.g., provide simple information about a trip the student has taken or where the student lives)	<ul style="list-style-type: none"> Recognize some common symbols of state and country, such as the shape of Louisiana or United States, or the Louisiana or American flag Observe the path a letter travels when teachers shows route on the map Answers questions about where they went on a trip or other places they have lived
*PK-CSS-C –Prekindergarten – Cognitive Social Studies – Geography		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§345. Social Studies Development—Civics

Standard: Develop community and career awareness		
Louisiana K-4 Content Standards: E-1A-E3 Kindergarten Health Standards: 3-E-1 & 3-E-2 Head Start Performance Standards: 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CSS-C1 Recognize community workers and increase awareness of their jobs	3. Identify community workers and their jobs	<ul style="list-style-type: none"> Identify different community workers by the uniform worn or the equipment used Participate in field trips to observe community workers Listen to guest speakers, such as a firefighter or a police officer Dress-up and role play different types of community workers
PK-CSS-C2 Identify his/her role as a member of family/class	5. Participate in patriotic activities	<ul style="list-style-type: none"> Participate in classroom duties Describe experiences shared within the family Participate in role playing
*PK-CSS-E –Prekindergarten – Cognitive Social Studies –Civics		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§347. Social Studies Development—Economics

Standard: Develop an understanding of how basic economic concepts relate to their everyday lives		
Louisiana K-4 Content Standards: E-1A-E3 Head Start Performance Standards: 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CSS-E1 Demonstrate an awareness of money being used to purchase things	6. Demonstrate an awareness of the uses of money in play activities	<ul style="list-style-type: none"> Use pretend money to purchase things in a dramatic play grocery store, bank, or post office
*PK-CSS-G –Prekindergarten – Cognitive Social Studies –Economics		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§349. Social Studies Development—History

Standard: Develop an understanding of the concept of time		
Louisiana K-4 Content Standards: H-1A-E1 Head Start Performance Standards: 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-CSS-H1 Use words to describe time (<i>yesterday, today, tomorrow</i>)	7. Demonstrate an awareness of time by using and responding to such words as <i>yesterday, today, and tomorrow</i>	<ul style="list-style-type: none"> Use statements like, "I'm getting a bike today!" or "My birthday is tomorrow!" Use statement like, "The field trip was yesterday."
*PK-CSS-H –Prekindergarten – Cognitive Social Studies - History		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Subchapter E. Creative Arts

§351. Creative Arts Development

A. Creative arts development fosters creativity, individual expression, self-esteem, imagination, and appreciation of diversity. Through music, movement, visual arts, and dramatic arts, prekindergarten children are encouraged to explore and express themselves creatively. Creative expression supports children’s cognitive growth, problem-solving skills, and growing insight about the world around them.

B. Effective prekindergarten programs:

1. integrate creative arts in all developmental domains;
2. provide daily opportunities for creative endeavors;
3. emphasize the process, rather than the outcome;
4. offer creative arts experiences in a risk-free environment;
5. encourage children to express themselves freely.

C. Strategies to support an inclusive learning environment:

1. provide materials that are easily adaptable for independent use and ensure that the materials are easily accessible;
2. adapt the environment to promote interaction, engagement, and learning;
3. allow participation based on interest, ability, language, and culture.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§353. Stages of Art Development

A. Scribbling Stage (3 to 4 years of age). Child use crayons, markers and paint in zigzag fashion and circular motions. Later, the scribbles become more controlled. Their work is exploratory. Color is unrealistic. The child begins to draw symbols like circles, crosses and lines.

B. Preschematic Stage (4 to 7 years of age)

1. Age 4—the child begins to show definite forms in representing a person, making a circle for the head and two vertical lines for legs. Sometimes there is a mouth, arms, hands, feet or shoes. Objects are drawn at random and they are not in sequence or proportion. At this stage, form is more important than color. As children progress through this stage, size becomes more proportional, and they gain more brush control as their paintings begin to look more like illustrations.

2. Age 7—child has established a mental picture of an object that is repeated with each painted repetition of the object. For example, each time the child paints a house, it will look very much like all the other houses he/she painted.

C. Schematic Stage (6 to 9 years of age). At this stage, sky lines (usually blue) and base lines (usually green) appear on the top and bottom of drawings. Items drawn between these lines usually are proportional, and they are on the base line as appropriate.

Source: The Portfolio and Its Use: A Road Map for Assessment by Southern Early Childhood Association

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§355. Creative Arts Development—Music

Standard: Begin to participate in musical activities, perform and create music		
Head Start Performance Standards: 1304.21(a)(3)(ii) & (a)(4)(ii) ECERS-R: 21 Kindergarten P.E. Standards: 1-P-4		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Respond to variations in music – pitch, volume, tempo, beat, rhythm, or patterns	<ul style="list-style-type: none"> Participate in musical listening games to hear differences in sounds or feel differences in vibrations (e.g. vocal, instrumental, sounds, or vibrations produced by instruments) Respond to music that has different types of beat by tapping or clapping with the beat Reproduce a musical variation with instruments, computer programs, voice, hand signs or movement

Standard: Begin to participate in musical activities, perform and create music		
Head Start Performance Standards: 1304.21(a)(3)(ii) & (a)(4)(ii) <i>ECERS-R</i> : 21 Kindergarten P.E. Standards: 1-P-4		
Indicator	Grade-level Expectation	Examples
	2. Express thoughts and feelings in response to a variety of diverse types of music	<ul style="list-style-type: none"> • Use props (e.g. scarves, streamers, instruments) to respond with expression to music • Draw a picture in response to how they feel as they listen to a variety of music • Participate in discussions (verbally or with an alternate communication system) about a live musical performance (e.g. how the performance made you feel, what you liked about the performance)
	3. Make music	<ul style="list-style-type: none"> • Participate in daily musical activities, such as singing, finger plays, nursery rhymes, poetry, rhythmic games, instruments, and/or musical books • Participate in songs and rhythms that reflect different languages and cultures • Use musical instruments and props indoors or outdoors • Create own music using voice, instruments or other objects

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§357. Creative Arts Development—Movement

Standard: Begin to participate in creative movement activities		
Head Start Performance Standards: 1304.21(a)(4)(ii) <i>ECERS-R</i> : 21 Kindergarten P.E. Standards: 2-P-2; 2-P-3; & 2-P-5		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Observe or participate in various forms of movement	<ul style="list-style-type: none"> • Observe and repeat the movements of people, animals, and various objects • Develop body and/or hand movements that express concepts or ideas (e.g. feelings, directions, to find an object, or specific words) • Play charades or “Simon Says” with prompts from teacher (e.g. stop, go, walk, come, angry, sad, hurry, surprise)
	2. Show creativity through movement	<ul style="list-style-type: none"> • Dance freely to music • Imitate various movements found in nature, such as animals, trees, or water • Exhibit a variety of creative ways to move with or without assistance

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§359. Creative Arts Development—Visual Art

Standard: Respond to and begin to create various forms of visual art		
Head Start Performance Standards: 1304.21 (a)(4)(ii) <i>ECERS-R</i> : 20 & 27		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Observe and/or describe various forms of art	<ul style="list-style-type: none"> • Work with different art materials in the art center (e.g. clay, paint, collage materials, and string) • View or feel art objects or exhibits, such as paintings, sculptures • Observe and/or tell about various artists and crafters who demonstrate different types of art media • Describe or show what they like about their own art and art of others • Point out various forms of art media (e.g. photographs, collages, paintings) found in books, photographs/prints, on school site and on field trips
	2. Create individual and/or group art	<ul style="list-style-type: none"> • Participate regularly in creative art opportunities using water colors, collage materials, paints, paper, scissors, glue, crayons, stamp pads, templates, stencils, markers, paint brushes and clay (independently or with support) • Use a computer program with a mouse, touch screen or other assistive technology to create art • Work with friends to create a collage or to paint a mural

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§361. Creative Arts Development—Dramatic Art

Standard: Participate in, perform, and create dramatic art		
Head Start Performance Standards: 1304.21(a)(4)(ii) ECERS-R: 24		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Experience and respond to a variety of dramatic performances (puppetry, storytelling, dance, plays, pantomime, theater)	<ul style="list-style-type: none"> • Watch a puppet show the librarian presents for the class when she visits their room • Participate in retelling a story based on a dramatic performance the class saw together • Participate in discussions about a dramatic performance (e.g. how the performance made you feel, what character[s] did you like best and why?) • Create a picture to show feelings after viewing a variety of dramatic performances
	2. Role play or use puppets to express feelings, dramatize stories, mimic social behaviors observed in adults, re-enact real-life roles and experiences	<ul style="list-style-type: none"> • Play in various interest centers with a variety of props • Role-play problem-solving in classroom situations (e.g. taking turns, sharing, playing cooperatively, expressing feelings, appropriate behaviors and manners) • Act out stories that come from different cultures (e.g. fairy tales told by persons from a different country or Native American legends) • Pretend to cook dinner while playing outside in the sand box
	3. Participate in activities using symbolic materials and gestures to represent real objects and situations	<ul style="list-style-type: none"> • Exhibit free expression and imagination in songs, stories, poems, and finger plays (e.g. using scarves to represent birds; hands as thunder, raindrops, footsteps; stick for wand, pointer, a horse, or a walking cane) • Pretend that objects are something else during play (e.g. using a banana or their fingers for a telephone, using bristle blocks as hair clippers)

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2326 (November 2003).

Subchapter F. Health and Physical Development

§363. Health and Physical Development

A. Health and physical development skills are the foundation for the future health and well-being of all children. This domain fosters children’s sound nutritional choices and health and safety practices for optimal learning. Fine and gross motor skills enhance agility and strength, neural development, and general body competence.

B. Effective prekindergarten programs:

1. integrate physical development and health and safety activities into all curriculum areas;
2. introduce concepts and model behaviors that promote a healthy lifestyle.
3. provide adequate age-appropriate indoor and outdoor space and facilities that allow children to experience a variety of developmentally appropriate physical activities.

4. emphasize participation, rather than mastery.

C. Strategies to support an inclusive learning environment:

1. provide adaptive equipment and materials
2. assure that the classroom and school environments are easily accessible;
3. use appropriate verbal, visual, and physical cues in all the activities;
4. allow participation based upon interest, ability, language, and culture.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2329 (November 2003).

§365. Health and Physical Development—Health and Hygiene

Standard: Develop health and hygiene skills		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Demonstrate an awareness of healthy practices	<ul style="list-style-type: none"> Engage in activities to learn about healthy and unhealthy foods Understand that some foods are healthy and that some foods are not healthy Participate in practices that promote healthy hygiene Identify reasons for the importance of rest Participate in nutritious cooking activities Recognize that some foods may cause allergic reactions Participate in exercise activities
	2. Exhibit good hygiene habits and self-help skills	<ul style="list-style-type: none"> Use proper handwashing techniques Use appropriate dental hygiene practices Use appropriate toileting skills independently Demonstrate autonomy in routine tasks (e.g. self-dressing, taking care of personal belongings, cleaning up after activities) Attempt to cover nose and/or mouth when coughing or sneezing, use tissue to wipe nose, wash hands after toileting and nose wiping

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§367. Health and Physical Development—Environmental Hazards

Standard: Begin to develop an awareness of potential hazards in their environments		
Head Start Performance Standards: 1304.22(a); (c)(1)(iii); & (d) ECERS-R Items: 14 Kindergarten Health Standards: 1-E-4; 3-E-1; 3-E-2; & 7-E-1		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Identify potentially harmful objects, substances, behaviors, and/or situations	<ul style="list-style-type: none"> Sort pictures of non-harmful and harmful objects into groups Practice basic strategies to prevent injury (e.g. crossing the street with an adult, wearing helmets while bike riding, locking brakes on wheel chair when it is not moving, or wearing seatbelts) Avoid touching potentially harmful substances or objects that only adults should use (e.g. knives, cleaning supplies, and hot pans) Recognize basic hazard symbols such as “Mr. Yuk”
	2. Be aware of and follow universal safety rules	<ul style="list-style-type: none"> Follow classroom and school rules Practice appropriate emergency drills (fire, tornado, bomb, 911, bus) in different environments with guidance from teacher Follow basic safety rules with guidance from teacher (e.g. bus, bicycle, playground, crossing the street, and stranger awareness) Recognize basic traffic symbols and signs

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§369. Health and Physical Development—Gross Motor

Standard: Develop gross motor skills		
Head Start Performance Standards: 1304.21(a)(5) <i>ECERS-R</i> Items: 7, 8, & 9 Kindergarten P.E. Standards: 1-P-1; 1-P-2; 1-P-3; 2-P-2; 2-P-3; 2-P-4; 2-P-5; 3-P-2; 3-P-3; 4-P-1; 4-P-2; 4-P-3; 4-P-4; 5-P-1; 5-P-2; 5-P-3; 5-P-4; & 7-P-3		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Develop coordination, balance and spatial awareness	<ul style="list-style-type: none"> Engage in large motor activities, such as climbing stairs/slide ladders (alternating feet), marching, hopping, running, jumping, dancing, riding tricycles/scooters, pulling or pushing wagons, and painting with large strokes Use adaptive equipment, such as scooter boards, modified tricycles, and walker ponies to participate in motor activities Walk on balance beam or straight tape line on the floor Balance on one foot Avoid obstacles while running or maneuvering a walker or wheel chair by controlling starts, stops, and sudden changes in direction Engage in activities that encourage crossing the midline, such as touching the left ear or right ear with the opposite hand or crossing one foot over the other foot
	2. Coordinate movements to perform tasks and try new skills indoors and/or outdoors	<ul style="list-style-type: none"> Walk, gallop, jump, run and/or move to exercise CDs/videos Tolerate support or assistance for movement activities (e.g. assisted movement of arms, legs or trunk or balancing on a large ball) Use open-ended materials (e.g. planks, wooden boxes, or hollow blocks) to move about, build and construct Engage in large motor activities that promote basic non-locomotor skills (e.g. bending and stretching), spatial awareness and balance Engage in activities that develop skills with a ball (e.g. moving body into position to catch or kick a ball, bouncing, kicking, throwing, catching, or rolling) Participate in a number of indoor and outdoor activities that increase strength, endurance, and flexibility, such as running for increasing amounts of time, participating in stretching activities, or climbing through tunnels Use outdoor/indoor large motor equipment daily to enhance strength and stamina in movement activities Play simple group games

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§371. Health and Physical Development—Fine Motor

Standard: Develop fine motor skills		
Head Start Performance Standards: 1304.21(a)(5) <i>ECERS-R</i> Items: 19 & 20		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Strengthen and control small muscles in hands	<ul style="list-style-type: none"> Use tear paper Use adaptive materials, such as triangle crayons or adaptive scissors Work with play dough and clay Use tweezers to pick up objects queeze wet sponges or use tongs or large tweezers to pick up objects Spin a top

Standard: Develop fine motor skills		
Head Start Performance Standards: 1304.21(a)(5) ECERS-R Items: 19 & 20		
Indicator	Grade-level Expectation	Examples
	2. Exhibit manual coordination	<ul style="list-style-type: none"> • use hands and fingers to act out finger plays and songs • use scissors and art materials • nap, button, or zip on clothing or clothing materials • use large tweezers to move objects from one place to another
	3. Participate in eye-hand coordination activities and develop spatial awareness	<ul style="list-style-type: none"> • use beads, laces, and pegs • cut paper with scissors • complete simple puzzles • use computer mouse or touch screen • scoop dry sand and pour into a bottle • use a variety of items/textures • Use plastic links to make a necklace

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2330 (November 2003).

Subchapter G. Language and Literacy

§373. Language and Literacy Development

A. Language and literacy are composed of listening, speaking, writing, thinking, and reading. The foundations of language and literacy are critical to all other curriculum areas as well as to the individual's social and emotional development. Children develop the basis for communication in the early childhood years, beginning with nonverbal and social exchanges, then developing spoken language, moving to an understanding of how oral language is translated into written symbols, and finally learning to decode and create written symbols to develop literacy. A solid foundation in language development in the years before a child enters school will promote success in reading and writing in the future. Young children who have rich language and literacy experiences are less likely to have difficulties learning to read.

B. Strategies to support an inclusive learning environment

1. Provide good models of communication.
2. Use special or adaptive devices to increase level of communication and/or participation.
3. Use a favorite toy, activity or person to encourage communication and/or participation.
4. Provide opportunities for interaction with typically developing peers.

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§375. Beginning Reading Skills

A. Scientifically based reading research shows that it is important for preschool age children to experience the following language, cognitive, and early reading skills for continued school success.

1. Phonological Awareness includes:
 - a. identifying and making oral rhymes;
 - b. identifying and working with syllables in spoken words through segmenting and blending;
 - c. identifying and working with "onsets" (all sounds of a word that come before the first vowel) and "rimes" (the first vowel in a word and all the sounds that follow) in spoken syllables;
 - d. identifying and working with individual sounds in spoken words (phonemic awareness).
2. Oral Language: development of expressive and receptive language, including vocabulary, the contextual use of speech and syntax, and oral comprehension abilities.
3. Print Awareness: knowledge of the purposes and conventions of print.
4. Alphabet Knowledge: recognize letters of the alphabet (not rote memory).

Source: Early Reading First Guidelines

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§377. Stages of Written Language Development

A. Children learn to write through a natural developmental progression. Each child should be allowed to progress at their own pace. There are at least six different stages of writing.

Stage 1—Random Scribbling: (2 and 3 years old)
Children make marks on paper with little muscular control.
Stage 2—Controlled Scribbling: (3 years old)
Children "write" across the paper in linear fashion, repeating patterns over again, showing increased muscular control.
Stage 3—Letter-like Forms: (3 and 4 year olds)

Children make mock letters. These are written lines of letters that have letter characteristics, but they are misshapen and written randomly, even covering the page. They pretend they are writing; in their work they separate writing from drawing. They have purpose to their letter-like forms.
Stage 4—Letter and Symbol Relationship: (4 year olds)
Children write letters to represent words and syllables. They can write their names. They know the word that represents their names. They can copy words. Reversals are frequent.
Stage 5—Invented Spelling: (4 and 5 year olds)
Children make the transition from letter forms to invented spelling. This requires organization of letters and words on the page. They use a group of letters to form a word. Many of the letters will be consonants. They understand that letters relate to sounds. Some punctuation appears. They can copy words from their environment.

Stage 6—Standard Spelling: (5, 6, and 7 year olds)
Most of the words the children use are written correctly; some add punctuation. They organize their words in lines with spaces between the words; they move from left to right, and from the top of the to the bottom.
Source: The Portfolio and Its Use: A Road Map for Assessment by Southern Early Childhood Association

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2332 (November 2003).

§379. Language and Literacy Development—Listening

Standard: Develop and expand listening skills		
Louisiana K-4 Content Standards: ELA-1-E1; ELA-4-E2, E3, E5, E6, E7 <i>ECERS-R</i> Items: 18 Head Start Performance Standards: 1304.21 (a)(4)(iii) & (a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-LL-L1 Listen with understanding to directions and conversations	8. Listen to a story and state orally what the story is about 10. Share related life experiences after stories are read aloud	<ul style="list-style-type: none"> Respond to stories read to the whole class Understand changes in the morning activity schedule being described by the teacher Carry on a conversation with another person that develops a thought or idea expressed by the group earlier Listen to tapes or CD's and show understanding through body language or by interacting with such
PK-LL-L2 Follow directions that involve two- or three-step sequence of actions	24. Follow one- and two-step verbal and nonverbal directions 8. Listen to a story and state orally what the story is about	<ul style="list-style-type: none"> Repeat an instruction to a friend Follow these instructions, "Wash you hands, then sit at the table" Follow these instructions, "Get your coat, put it on, then sit next to your friend" Follow directions given to the class, such as "Take this note about our class trip home, have a family member sign it, and bring it back to me"
PK-LL-L3 Hear and discriminate the sounds of language in the environment to develop beginning phonological awareness	<p>1. Demonstrate understanding of phonological awareness by doing the following:</p> <ul style="list-style-type: none"> Manipulating endings of words and nonsense words to make rhyming sounds Manipulating syllables in spoken words (segment/blend) Identifying and manipulating onset and rime in words with three sounds (onset of the word cake is /k/ and the rime of the word cake is /-ake/) Repeating each word in a simple sentence <p>2. Demonstrate understanding of phonemic awareness by manipulating and identifying individual sounds (phonemes) in spoken words with three sounds</p> <p>3. Demonstrate understanding of alphabetic principle by doing the following:</p> <ul style="list-style-type: none"> Identifying own first name in print Identifying at least eight uppercase or lowercase letters, focusing on those in the student's name <p>18. Participate in group-shared writing activities that include rhyming and descriptive words</p> <p>27. Actively participate in role-playing, creative dramatics, finger plays, nursery rhymes and choral speaking</p>	<ul style="list-style-type: none"> Listen to and participate in many nursery rhymes, chants, poems, fingerplays, and songs Make up silly rhymes, such as funny bunny or silly willy Clap hands for each syllable in a word, such as clap hands three times when saying Su-zan-na Sing songs that segment words or accent beginning sounds, and with teacher, clap to the syllables Play with sounds to create new words, such as "Pass the bapkin napkin" (rhymes) Notice words that begin in the same way, such as "My name begins the same as popcorn and pig" (onsets)

Standard: Develop and expand listening skills		
Louisiana K-4 Content Standards: ELA-1-E1; ELA-4-E2, E3, E5, E6, E7 <i>ECERS-R</i> Items: 18 Head Start Performance Standards: 1304.21 (a)(4)(iii) & (a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-LL-L4 Demonstrate understanding of new vocabulary introduced in conversations, activities, stories or books	5.Orally respond to questions using new vocabulary introduced in conversations, activities, stories, or books 27. Actively participate in role-playing, creative dramatics, finger plays, nursery rhymes and choral speaking	<ul style="list-style-type: none"> Listen to a variety of literature genre, including narratives, nursery rhymes, other poems, and informational books Listen to read-aloud books that are characterized by less common vocabulary, more complex sentences, and concepts
PK-LL-L5 Engage in activities that offer the opportunity to develop skills associated with technology by viewing, comprehending, and using non-textual information	28. Listen and orally respond to questions about media, including music and videos 30. Identify a computer mouse and its purpose (i.e., to navigate the screen)	<ul style="list-style-type: none"> Listen to a story on a tape or a CD Listen to recordings of age-appropriate stories while looking at a book Use age-appropriate and interactive software programs when available

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§381. Language and Literacy Development—Speaking

Standard: Communicate experiences, ideas, and feelings through speaking		
Louisiana K-4 Content Standards: ELA-2-E1 & E2 ELA-4-E1, E2, E5, E6, E7 <i>ECERS-R</i> Items: 15 & 17 Head Start Performance Standards: 1304.21 (a)(4)(iii) & (a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-LL-S1 Develop and expand expressive language skills	7. Role-play using different voices to represent characters in familiar stories 10. Share related life experiences after stories are read aloud 11. Orally express thoughts about characters or events in a story 21. Use words, phrases, and/or sentences to express feelings, ideas, needs, and wants 22. Carry on a conversation about a topic, thought, or idea from the classroom, home, or community 23. Repeat an instruction given orally 29. Recognize and follow agreed-upon rules for discussing, such as raising one's hand, waiting one's turn, and speaking one at a time 31. Identify and use information that is formatted in a chart or graph, such as a daily schedule	<ul style="list-style-type: none"> Use different voices for characters in stories read aloud or told, such as The Three Bears and The Three Billy Goats Gruff Role play activities where different levels of volume would be used, such as when a baby is sleeping or when calling to someone standing far away Participate as an equal partner in conversations by responding to others, making relevant comments, or providing more information when message is not understood Talk through or explain reasoning when problem-solving (classroom materials or behaviors)
PK-LL-S2 Use new vocabulary in spontaneous speech	11. Orally express thoughts about characters or events in a story 21. Use words, phrases, and/or sentences to express feelings, ideas, needs, and wants 27. Actively participate in role-playing, creative dramatics, finger plays, nursery rhymes and choral speaking	<ul style="list-style-type: none"> Incorporate words and phrases from books, stories, and activities into play Incorporate story elements into play Participate in class discussions of books, stories, and activities Use new vocabulary introduced in a thematic study during play
PK-LL-S3 Ask and answer relevant questions and share experiences individually and in groups	9. Answer simple questions about a story read aloud 14. Use simple reasoning skills, including asking simple questions about a story read aloud 22. Carry on a conversation about a topic, thought, or idea from the classroom, home, or community 26. Speak about life experiences or topics of interest	<ul style="list-style-type: none"> Dictate stories during small group time about experiences they have had Ask simple questions, such as “What’s for lunch?” or “Can we play outside today?” Ask questions to further their understanding, such as “Where does the snow go when it melts?” or “Why does that man wear a uniform?” Answer questions with a complete thought, such as “I took a bus to school” or “I want purple and blue paint”
PK-LL-S –Prekindergarten – Language and Literacy Development – Speaking		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§383. Language and Literacy Development—Reading

Standard: Engage in activities that promote the acquisition of emergent reading skills		
Louisiana K-4 Content Standards: ELA-2-E1, E2 & ELA-4-E1, E2, E5, E6, E7 <i>ECERS-R</i> Items: 15 Head Start Performance Standards: 1304.21(a)(4)(iii) & (a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-LL-R1 Actively engage in reading experiences	14. Use simple reasoning skills, including identifying reality and fantasy in texts read aloud 27. Actively participate in role-playing, creative dramatics, finger plays, nursery rhymes and choral speaking	<ul style="list-style-type: none"> Listen with interest to a story read or told by an adult or another child Track along and verbalize as teacher points to individual words in shared reading (e.g. big books, songs, poems, or recipes) Retell familiar stories Complete phrases about familiar stories Ask questions about the illustrations in a book or about details in a story just heard Choose and look at books independently Act out familiar stories with props
PK-LL-R2 Retell information from a story	11. Orally express thoughts about characters or events in a story 12. Demonstrate understanding of texts read aloud using a variety of strategies, including: Sequencing two or three pictures to illustrate events in a story Participating in a group discussion to predict what a book will be about Determining whether the prediction was accurate 13. Identify problems and solutions in stories that are read aloud 14. Use simple reasoning skills, including determining why something happens in a story read aloud 25. Retell part of a favorite story	<ul style="list-style-type: none"> Use words or pictures to begin to retell some story events in sequence Dramatize familiar stories, such as Caps for Sale or Brown Bear, Brown Bear Relate the main thought of a story read several days before Stage a puppet show based on a story read or told to the group
PK-LL-R3 Demonstrate an understanding of print concepts and beginning alphabetic knowledge	5. Demonstrate understanding of book and print concepts by doing the following: <ul style="list-style-type: none"> Recognizing that a book has a cover and identifying the cover and title of a book Holding a book right side up Differentiating between an illustration and printed text Recognizing that print is read left-to-right and top-to-bottom 	<ul style="list-style-type: none"> Recognize and begin writing own name, demonstrating that letters are grouped to form words Pretend to read by pointing with a finger while reciting text Look at books appropriately, turning one page at a time, left to right over text, going from top to bottom, front to back of book Recognize familiar logos, such as McDonald's or Wal-Mart Recognize book by cover
PK-LL-R4 Use emerging reading skills to make meaning from print	6. Relate pictures to characters 9. Answer simple questions about a story read aloud	<ul style="list-style-type: none"> Use illustrations to predict printed text, such as saying "And the wolf blew down the pig's house" Make predictions about print content by using prior knowledge, pictures, text heard, and story structure skills
PK-LL-S –Prekindergarten – Language and Literacy Development – Speaking		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§385. Language and Literacy Development—Writing

Standard: Engage in activities that promote the acquisition of emergent writing skills		
Louisiana K-4 Content Standards: ELA-1-E5; ELA-2-E1, E2, E6; & ELA-3-E1 <i>ECERS-R</i> Items: 16 & 19 Head Start Performance Standards: 1304.21(a)(4)(iii) & (a)(4)(iv) 1304.21(c)(1)(ii)		
Indicator	Grade-level Expectation	Examples
PK-LL-W1 Experiment with a variety of writing tools, materials, and surfaces	15. Use scribble writing, letter-like forms, dictation, or drawing to represent a word or concept	<ul style="list-style-type: none"> • Draw or write using pencils, crayons, chalk, markers, rubber stamps, and computers • Draw or write using materials, such as brushes and water, feathers, roll-on bottles, shaving cream, and zip-lock bags filled with hair gel or paint • Draw or write on paper, cardboard, chalkboard, dry erase boards, wood, and concrete
PK-LL-W2 Use forms of shapes and letter-like symbols to convey ideas	15. Use scribble writing, letter-like forms, dictation, or drawing to represent a word or concept 17. Write informal notes, lists, and letters using scribble writing and/or pictures 19. Scribble write or draw a picture of a life experience or response to a text read aloud 20. Demonstrate consistent top-to-bottom formation for letters or letter-like forms	<ul style="list-style-type: none"> • Use scribble writing and letter-like forms, especially those letters in their own name • Begin to represent ideas and experiences through drawing and early stages of writing, such as “I ms u” • Attempt to connect the sounds in words with their written letter forms
PK-LL-W3 Participate in a variety of writing activities focused on meaningful words and print in the environment	15. Use scribble writing, letter-like forms, dictation, or drawing to represent a word or concept 16. Orally generate words, ideas, and lists for group writing activities 17. Write informal notes, lists, and letters using scribble writing and/or pictures 18. Participate in group-shared writing activities that include rhyming and descriptive words	<ul style="list-style-type: none"> • Use a variety of writing utensils and props to encourage writing in different centers, such as <ul style="list-style-type: none"> ○ Journals, sign-in sheets, name cards, cards with words and pictures in the writing center ○ Counter checks, grocery store advertisements with paper to make grocery list in the dramatic play center ○ Materials to make books, cards, or write messages in the art center ○ Paper, tape, dowels, and play dough to make signs or enhance structures in the block center • Paper or blank books to record observations of animals or results of experiments in the science center
PK-LL-W4 Demonstrate an interest in using writing for a purpose	17. Write informal notes, lists, and letters using scribble writing and/or pictures 18. Participate in group-shared writing activities that include rhyming and descriptive words 19. Scribble write or draw a picture of a life experience or response to a text read aloud	<ul style="list-style-type: none"> • Pretend to write a prescription while playing clinic • Scribble writes next to picture • Tell teacher, “Write it down so everyone can read it.” • Ask teacher, “How do I write Happy Birthday?” • Write own name on a drawing for a friend • Take deliberate letter choices during writing attempts • Draw a representation of a school bus with a flat and explains picture. Make a book from the paper and write the school bus story using scribbles, letter-like symbols or letters to retell the school bus incident. • Create a recipe for a favorite snack • Compose notes/invitations to family/friends
*PK-LL-W –Prekindergarten – Language and Literacy Development — Writing		

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Subchapter H. Social and Emotional

§387. Social and Emotional Development

A. This domain supports the social and emotional development of children. The standards in this domain promote self-regulation, positive self-identity, self-reliance, respect for others, and interpersonal relationships. These skills are essential because the foundations of social competence developed during the first five years of life are linked to emotional well-being and affect later ability and functionality to adapt in school and form successful relationships. Strong social and emotional development programming significantly raises test scores and lowers levels of distress, disruptive behavior, and future substance abuse. ¹ Prekindergarten children need proper guidance to develop the ability to negotiate issues that occur, to take turns, to lead and follow, and to be a friend. They also need to learn how to manage and express their feelings in a socially acceptable manner.

B. Effective prekindergarten programs

1. offer opportunities for appropriate social and emotional development in a safe and supportive climate that minimizes stress and conflict;

2. introduce concepts and model techniques that promote positive identity and social interactions;

3. Provide consistency and predictability in daily routines, environment, and staff;

4. Integrate social and emotional development into all curriculum areas.

C. Strategies to support an inclusive learning environment

1. Create an environment that encourages participation based upon interest, ability, language, and culture.

2. Plan opportunities for social interactions with all peers.

3. Prepare children for transitions that occur within the daily routine.

4. Model and reinforce respect for individual differences

NOTE: To facilitate the inclusion of all children, including those with varying abilities, IEPs, and/or English Language Learners, some sample accommodations are embedded within the examples provided for the indicators. Please see Appendix A and Appendix B for further information and suggested modifications and/or accommodations.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§389. Social and Emotional Development—Self-Regulation

Standard: Develop self-regulation by increasing one’s ability to control actions, thinking processes, and emotions		
Head Start Performance Standards: 1304.21(a)(3); (c)(1)(iv); & (c)(1)(vi) <i>ECERS-R</i> Items: 29, 31, & 33 Kindergarten Health Standards: 1-E-2; 4-E-1; 4-E-2 Kindergarten P.E. Standards: 5-P-1 & 5-P-2		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Follow rules and routines and adapt to changes in rules and routines	<ul style="list-style-type: none"> Follow simple rules, such as walking in the hallway, keeping hands and feet to oneself, and speaking nicely to others Separate easily from parents/caregivers upon arrival and departure Manage daily routines appropriately (e.g., participate in snack time, nap or other routine activities) without much delay or protest Manage daily transitions by moving from one activity to another without much delay or protest Can change routine and adapt when daily activities are interrupted unexpectedly
	2. Express feelings, needs, and wants in a manner that is age appropriate to the situation	<ul style="list-style-type: none"> Identify common emotions (such as happy, sad, mad) using any form of communication, such as verbal communication, gestures, motions, signs, communication devices, or various languages Use words or other modes of communication to express anger, instead of a negative physical behavior, such as hitting, biting, etc. Communicate with appropriate body language and facial expressions (e.g., smile or raise hand upon completion of a task)
	3. Demonstrate control over impulsive behaviors in various settings	<ul style="list-style-type: none"> Pay attention as required by a task Wait for turn to touch class pet Follow the teacher’s instructions not to touch a knife during a cooking activity

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§391. Social and Emotional Development—Self-Identity

Standard: Develop positive self-identity by valuing oneself and feeling a sense of belonging		
Head Start Performance Standards: 1304.21(a)(3); (c)(1)(iv); & (c)(1)(vi) Kindergarten Health Standards: 1-E-2 & 2-E-1 Kindergarten P.E. Standards: 7-P-1; 7-P-2; & 7-P-3		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Recognize oneself as having unique characteristics and preferences	<ul style="list-style-type: none"> • Share personal information, such as name, gender, eye color • Communicate awareness and acceptance of individual differences between children by commenting, “Michael uses a hearing aid, but I don’t” or “Tommy says things differently than I do” • Indicate favorite books, foods, or songs
	2. Recognize and express feelings	<ul style="list-style-type: none"> • Create drawings, stories, and songs to illustrate emotions (e.g., If you’re sad and you know it...) • Talk about or act in ways to express emotions without harming self, others, or property (e.g., dancing or exercising until out of breath, relaxing in a cozy area) • Stand up for own rights (e.g. “I don’t like it when you take my ball” if toy is taken away or “I am supposed to be the leader today” if another child pushes to the front of the line) • Participate in discussions of a character from a story
	3. Discuss his/her own family	<ul style="list-style-type: none"> • Identify members of his/her family and their roles in the family • Tell stories, draw pictures, or verbally describe family practices, such as “My family eats rice with every meal” • Tell the class that his/her family uses the word “casa” instead of “house” • Talk about family experiences, such as weekend activities or trips
	4. Demonstrate confidence in range of abilities and express pride in accomplishments	<ul style="list-style-type: none"> • Say, “Watch me! I can do it by myself!” • Ask a friend or adult to look at what he/she has painted • Use home language to label objects in the classroom for peers
	5. Attempt new experiences	<ul style="list-style-type: none"> • Move away from adults to play alone or with peers, checking back as needed • Investigate new materials without teacher prompting • Initiate play with a new classmate • Try a new outdoor game

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§393. Social and Emotional Development—Self-Reliance

Standard: Develop self-reliance by demonstrating independence and self-help skills		
Head Start Performance Standards: 1304.21(a)(3); (c)(1)(iv); & (c)(1)(vi) Kindergarten Health Standards: 1-E-3 Kindergarten P.E. Standards: 5-P-2; & 5-P-4		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Develop independence during activities, routines, and play	<ul style="list-style-type: none"> • Self select a center to play in using words, picture cues, home language, sign, gestures • Upon arrival, place items in cubbies, wash hands independently, and dry hands • Put on a jacket without help
	2. Choose activities and use materials appropriately, purposefully, respectfully, and safely	<ul style="list-style-type: none"> • Choose puzzle, use puzzle, and put puzzle back on shelf • Choose a center, play in that center, clean up and move to another center • Put tapes/CDs in player to listen to music • Use markers, crayons, scissors, and paint only on paper or other appropriate materials

Standard: Develop self-reliance by demonstrating independence and self-help skills		
Head Start Performance Standards: 1304.21(a)(3); (c)(1)(iv); & (c)(1)(vi) Kindergarten Health Standards: 1-E-3 Kindergarten P.E. Standards: 5-P-2; & 5-P-4		
Indicator	Grade-level Expectation	Examples
	3. Show increasing competence in a wide range of self-care activities	<ul style="list-style-type: none"> • Brush his/her own teeth • Indicate to an adult when he/she has to go to the bathroom • When cold, get his/her own coat and put it on independently
	4. Seek guidance from peers and adults when needed	<ul style="list-style-type: none"> • Ask an adult before touching something that might not be safe • Seek assistance when having trouble putting on shoes • Seek assistance when dealing with a difficult conflict

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§395. Social and Emotional Development—Respect for Others

Standard: Develop a respect for and understanding of others		
Head Start Performance Standards: 1304.21(a)(3); (c)(1)(iv); & (c)(1)(vi) <i>ECERS</i> : 28 Kindergarten P.E. Standards: 6-P-1; 6-P-2; & 6-P-3		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Recognize and respect the feelings, needs, and rights of others	<ul style="list-style-type: none"> • Laugh or smile when others are happy • Indicate that another child is sad because her parent/caregiver left • Bring a truck book to someone who loves trucks • Be respectful of another’s personal space and belongings • Be respectful of others’ cultures, languages, customs, appearances, and needs
	2. Demonstrate growing understanding of how one’s actions affect others	<ul style="list-style-type: none"> • With encouragement from an adult, give a pat, friendly word, or toy to a peer to whom he/she has caused distress • Begin to recognize the feelings reflected by others’ facial expressions • Invite another child to play when other children have rejected that child
	3. Demonstrate awareness of and respect for uniqueness of others	<ul style="list-style-type: none"> • Show interest in how people in different cultures live • Participate in various cultural activities (e.g. stories, cooking, songs) • Interact appropriately with others different from oneself • Accept peers with different abilities

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§395. Social and Emotional Development—Interpersonal Skills

Standard: Develop interpersonal skills that foster positive relationships		
Head Start Performance Standards: 1304.21(a)(3); (c)(1)(iv); & (c)(1)(vi) <i>ECERS-R</i> : 31, 32, & 33 Kindergarten P.E. Standards: 5-P-2; 5-P-3; 5-P-4; & 6-P-2		
Indicator	Grade-level Expectation	Examples
NOTE: PreK Indicators do not apply to this Standard	1. Play cooperatively with peers for a sustained time	<ul style="list-style-type: none"> • Take turns • Successfully enter a group • Participate successfully in group activities • Work with others to complete a task, such as building a block tower
	2. Build conflict resolution skills	<ul style="list-style-type: none"> • Move from physical to verbal responses in conflicts with other children • Engage another child in a conversation about a toy he/she wants • Trade one toy for another • Seek assistance from the teacher for help when dealing with others who are less able to resolve a conflict

Standard: Develop interpersonal skills that foster positive relationships		
Head Start Performance Standards: 1304.21(a)(3); (e)(1)(iv); & (e)(1)(vi) ECERS-R: 31, 32, & 33 Kindergarten P.E. Standards: 5-P-2; 5-P-3; 5-P-4; & 6-P-2		
Indicator	Grade-level Expectation	Examples
	3. Develop and maintain positive relationships with peers and adults	<ul style="list-style-type: none"> • Tells someone, "Mary is my friend" • Share a book with a friend • Give teacher a hug or a smile • Separate from parents to greet teacher • Demonstrate happiness when reunited with parents at the end of the day

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Chapter 5. Pre-K Standards at-a-Glance

§501. Approaches to Learning

Reasoning and Problem-Solving	
GLE 1	Demonstrate an intrinsic motivation to learn by displaying interest in real world experiences
GLE 2	Demonstrate the ability to think systematically and use reasoning skills
GLE 3	Use a variety of strategies to investigate possible solutions when problem-solving
GLE 4	Approach tasks and experiences with flexibility, imagination, and inventiveness to create new ideas outside of his/her own experience
GLE 5	Discuss ideas and experiences with others, utilizing any form of communication
GLE 6	Reflect on investigations and their results by making observations and possibly forming new ideas
Initiative, Engagement, and Persistence	
GLE 1	Show curiosity and interest in learning new things and trying new experiences
GLE 2	Demonstrate initiative and independence in selecting and carrying out activities
GLE 3	Maintain attention in child-initiated and teacher-initiated activities for short periods of time, despite distractions and interruptions
GLE 4	Demonstrate an increasing ability to plan and work towards completion of tasks and activities, even when faced with frustration because the task or activity is difficult
Curiosity and Eagerness to Learn	
GLE 1	Make choices about play activities, materials, and playmates/companions
GLE 2	Engage in unfamiliar activities during play
GLE 3	Use prior knowledge and experiences to learn new skills during play
GLE 4	Use manipulatives and other hands-on materials to learn concepts and skills related to core content areas
GLE 5	Describe play experiences using English or another language or another mode of communication

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§503. Cognitive Development—Mathematics

Number and Number Relations	
PK-CM-N1	Compare numbers of objects
PK-CM-N2	Perform one-to-one correspondence
PK-CM-N3	Count by rote

PK-CM-N4	Begin to count objects
PK-CM-N5	Begin to recognize numerals
PK-CM-N6	Begin to demonstrate estimation skills
Measurement	
PK-CM-M1	Experience, compare, and use language relating to time
PK-CM-M2	Anticipate, remember, and describe sequences of events
PK-CM-M3	Use mathematical language to describe experiences involving measurement
PK-CM-M4	Measure objects in the physical world using non-standard units of measurement
Geometry	
PK-CM-G1	Recognize, name, describe, compare, and create basic shapes
PK-CM-G2	Identify shapes to describe physical world
PK-CM-G3	Describe and interpret spatial sense: positions, directions, distances, and order
Data Analysis	
PK-CM-D1	Sort and classify materials by one or more characteristics
PK-CM-D2	Collect and organize data about themselves, their surroundings, and meaningful experiences
PK-CM-D3	Interpret simple representations in data
Patterns and Relationships	
PK-CM-P1	Recognize patterns in the physical world
PK-CM-P2	Describe, copy, extend, create patterns and make predictions about patterns
PK-CM-P3	Seriate objects

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§505. Cognitive Development—Science

Science as Inquiry	
PK-CS-I1	Use prior knowledge and experiences to hypothesize, predict, generate questions, and draw conclusions about organisms and events in the environment
PK-CS-I2	Conduct simple scientific experiments
PK-CS-I3	Make observations using senses
PK-CS-I4	Employ equipment and tools to gather data and extend sensory observations
PK-CS-I5	Collect, interpret, communicate data and findings from observation and experiments in oral and written format
PK-CS-I6	Use appropriate scientific vocabulary related to topics
Physical Science	
PK-CS-P1	Begin investigating states of matter: solids, liquids, and gases
PK-CS-P2	Describe objects by their physical properties
PK-CS-P3	Explore the physical world using five senses
PK-CS-P4	Explore simple machines, magnets, and sources of energy
Life Science	
PK-CS-L1	Explore, observe, and describe a variety of living things
PK-CS-L2	Explore, observe, describe, and participate in a variety of non-living things
PK-CS-L3	Explore, observe, describe, and participate in a variety of activities related to preserving their environment
PK-CS-L4	Begin to develop an awareness and understanding of plant and animal life cycles and how the life cycles vary for different reasons

Earth and Space Science	
PK-CS-ES1	Investigate, compare, and contrast seasonal changes in their immediate environment
PK-CS-ES2	Discover through observation that weather can change from day to day
PK-CS-ES3	Use vocabulary to describe major features of the earth and sky

§507. Cognitive Development—Social Studies

Geography	
PK-CSS-G1	Include representations of roads, bodies of water, and buildings in their play
PK-CSS-G2	Use words to indicate directionality, position, and size
PK-CSS-G3	Develop awareness of the world around them
Civics	
PK-CSS-C1	Recognize community workers and increase awareness of their jobs
PK-CSS-C2	Identify his/her role as a member of family/class
Economics	
PK-CSS-E1	Demonstrate an awareness of money being used to purchase items
History	
PK-CSS-H1	Use words to describe time (yesterday, today, tomorrow)

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:0000 (November 2003).

§509. Creative Arts Development

Music	
GLE 1	Respond to variations in music – pitch, volume, tempo, beat, rhythm, or patterns
GLE 2	Express thoughts and feelings in response to a variety of diverse types of music
GLE 3	Make music
Movement	
GLE 1	Observe or participate in various forms of movement
GLE 2	Show creativity through movement
Visual Arts	
GLE 1	Observe and/or describe various forms of art
GLE 2	Create individual and/or group art
Dramatic Art	
GLE 1	Experience and respond to a variety of dramatic performances (puppetry, story-telling, dance, plays, pantomime, theater)
GLE 2	Role play or use puppets to express feelings, dramatize stories, mimic social behaviors observed in adults, re-enact real-life roles and experiences
GLE 3	Participate in activities using symbolic materials and gestures to represent real objects and situations

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§511. Health and Physical Development

Health and Hygiene	
GLE 1	Demonstrate an awareness of healthy practices
GLE 2	Exhibit good hygiene and self-help skills

Environmental Hazards	
GLE 1	Identify potentially harmful objects, substances, or behaviors, and/or situations
GLE 2	Be aware of and follow universal safety rules
Gross Motor	
GLE 1	Develop coordination, balance and spatial awareness
GLE 2	Coordinate movements to perform tasks and try new skills indoors and/or outdoors
Fine Motor	
GLE 1	Strengthen and control small muscles in hands
GLE 2	Exhibit manual coordination
GLE 3	Participate in eye-hand coordination activities and develop spatial awareness

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§513. Language and Literacy Development

Listening	
PK-LL-L1	Listen with understanding to directions and conversations
PK-LL-L2	Follow directions that involve two- or three-step sequence of actions
PK-LL-L3	Hear and discriminate the sounds of language in the environment to develop beginning phonological awareness
PK-LL-L4	Demonstrate understanding of new vocabulary introduced in conversations, activities, stories or books
PK-LL-L5	Engage in activities that offer the opportunity to develop skills associated with technology by viewing, comprehending, and using non-textual information
Speaking	
PK-LL-S1	Develop and expand expressive language skills
PK-LL-S2	Use new vocabulary in spontaneous speech
PK-LL-S3	Develop appropriate listening skills
Reading	
PK-LL-R1	Actively engage in reading experiences
PK-LL-R2	Retell information from a story
PK-LL-R3	Demonstrate an understanding of print concepts and beginning alphabetic knowledge
PK-LL-R4	Use emerging reading skills to make meaning from print
Writing	
PK-LL-W1	Experiment with a variety of writing tools, materials, and surfaces
PK-LL-W2	Use forms of shapes and letter-like symbols to convey ideas
PK-LL-W3	Participate in a variety of writing activities focused on meaningful words and print in the environment
PK-LL-W4	Demonstrate an interest in using writing for a purpose

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§515. Social and Emotional Development

Self-Regulation	
GLE 1	Follow rules and routines and adapt to changes in rules and routines
GLE 2	Express feelings, needs, and wants in a manner that is age appropriate to the situation
GLE 3	Demonstrate control over impulsive behaviors in various settings
Self-Identity	
GLE 1	Recognize oneself as having unique characteristics and preferences
GLE 2	Recognize and express feelings
GLE 3	Discuss his/her own family
GLE 4	Demonstrate confidence in range of abilities and express pride in accomplishments
GLE 5	Attempt new experiences
Self-Reliance	
GLE 1	Develop independence during activities, routines, and play
GLE 2	Choose activities and use materials appropriately, purposefully, respectfully, and safely
GLE 3	Show increasing competence in a wide range of self-care activities
GLE 4	Seek guidance from peers and adults when needed
Respect for Others	
GLE 1	Recognize and respect the feelings, needs, and rights of others
GLE 2	Demonstrate growing understanding of how one's actions affect others
GLE 3	Demonstrate awareness of and respect for uniqueness of others
Interpersonal Skills	
GLE 1	Play cooperatively with peers for a sustained time
GLE 2	Build conflict resolution skills
GLE 3	Develop and maintain positive relationships with peers and adults

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Chapter 7. Glossary of Terms

§701. Glossary of Terms

Accommodations—changes in the curricular material and experiences to accommodate a child's particular needs. Adaptations are not intended to alter the difficulty of the skill or area of development addressed. Such adaptations may enable children with disabilities to have experiences similar to those of their peers.

Child Initiated Activity—children are able to select their own centers, activities, materials, and companions, and are able to manage their own play independently. There is adult interaction in response to the children's developmental needs, as well as to introduce and reinforce concepts. This is also known as *free play*. (Note: When children are assigned to centers by staff or the staff selects the activities, materials, etc., for the children, this *is not* considered a child-initiated or free play activity.)

Concrete Hands-On Learning Experiences—learning experiences that emphasize choice, free exploration, interaction, and authenticity within a relevant and meaningful context. Such experiences emphasize the development of children's thinking, reasoning, decision-

making and problem-solving abilities. Curriculum areas and skills are integrated in the context of the learning activities and experiences as opposed to being taught in isolation.

Content Standards—describes the broad outcomes that children should achieve through a high-quality preschool experience. Each Content Standard is aligned with the Louisiana K-4 Content Standards and other relevant state and national standards.

Developmental Profile—specifies what most preschool children should be able to know and be able to do by the end of their preschool experiences.

Developmentally Appropriate Practice—quality care and education of young children based on:

1. knowledge of how children develop and learn. This includes information about ages and stages of development as well as what materials, activities and interactions are important for each;

2. knowledge of the individual child, including disabilities; and

3. knowledge about the social, cultural and familial cultural context in which children are growing up.

Domain—describe the aspect of development for each standard. content areas are specified for each domain.

Early Childhood Environment Rating Scale-Revised (ECERS-R)—a reliable and valid research based program quality assessment instrument. This scale is designed for use in classrooms serving children 2 1/2 to 5 years of age. It is used to evaluate classroom environment as well as programmatic and interpersonal features that directly affect children and adults in the early childhood setting. The seven sub-scales of the ECERS-R include: *Space and Furnishings, Personal Care Routines, Language-Reasoning, Activities, Interactions, Program Structure, and Parents and Staff.*

Emerging Skills—skills or abilities, which are not shown as being mastered but are present in a modified or limited form. Attention to emerging skills allows teachers to assess the developmental process and progress of students. Additionally, a focus on emerging skills is important in the planning of the environment and activities to facilitate development of skills.

Examples—tips on how to structure the curriculum and environment to assist a child's optimal performance.

Free Play—see Child-Initiated Activity.

Grapheme—the smallest part of *written* language that represents a phoneme in the spelling of a word.

Grade-level Expectation—specifies what most preschool children should be able to know and be able to do by the end of their preschool experience.

Head Start Performance Standards—these standards used in Head Start Programs are based on sound child development principles about how children grow and learn. The varied experiences provided by the program support the continuum of children's growth and development in all domains.

Indicators—define a Standard more specifically so that it can be measured. Each indicator is coded by domain, or content area and strand. For example, PK-CM-N1 means PreKindergarten-Cognitive Math-Number 1.

Interest Center—an area in the classroom used during free play/ child-initiated activities. In each area, the materials are organized by type and are stored so that they are accessible to the children, shelves have picture/word labels, and the

area is appropriately furnished. Interest centers can also be established outdoors.

Louisiana Literacy Profile—provides teachers of children in grades K-3 with the means of observing and recording progress in a continuum of growth that is based on literacy behaviors. It informs instruction and promotes development of literacy behaviors.

Manipulatives—materials that allow children to explore, experiment, and interact by using their hands or by mechanical means. These learning materials promote dexterity and eye-hand coordination while promoting problem-solving and higher levels of critical thinking. Such items include, but are not limited to, beads and laces, puzzles, small blocks, playdough, lacing cards, and items that can be snapped, zipped or hooked together to name a few.

Modifications—limiting, restricting, or altering materials, the environment or experiences without fundamentally changing the outcome or use of such. Modifications may enable children who are experiencing difficulty with a particular skill or an area of development to successfully achieve competence in these areas. Examples of modifications include offering a variety of levels of puzzles such as interlocking and pegged puzzles.

Multisensory Experiences—experiences that allow children to respond to physical stimuli relating to more than one of the five senses. Included in these types of experiences would be cooking activities where the senses of sight, smell, taste, touch and hearing would all be involved.

National Association for the Education of Young Children (NAEYC)—This national organization provides policy and research information on the growth and development of children from birth to age 8.

Non-Standard Units of Measurement—methods of measurement that do not include traditional means such as rulers, scales, clocks, etc. Non-standard units of measurement allow children to explore and thus understand the concept of measurement without being tied to exact numerical data. Items such as pieces of string, rows of blocks or pencils may serve as non-standard units to measure length; balances may help promote understanding of varying weights, and picture-graphs of daily routines allow children to understand the concept of time and passage of time.

Non-Textual Information—information expressed through the use of pictures, symbols or icons. Such information may be used by children to process information and to create mental images symbolic of real-world situations without the use of written text.

Onset—this is a part of spoken language that is smaller than a syllable but larger than a phoneme. It is the initial consonant sound of a syllable (The onset of *bag* is *b-*; of *swim*, *sw-*).

Open-Ended Questioning—questioning that promotes a child's development, as opposed to mere information gathering. This method of questioning is used to motivate children to learn, inquire about and discover their world. Open-ended questioning prompts students to think about their responses and requires a more in-depth level of critical thinking in order to respond. These questions help the

student to recognize a problem, analyze contributing factors and to consider a choice of optimal solutions. Open-ended questions are characterized by the words "What if?", "How?" , "What would happen if?", "Why do you think?", "Is there another way?" etc.

Phoneme—the smallest part of *spoken* language that makes a difference in the meaning of words.

Phonemic Awareness—the ability to hear, identify, and manipulate the individual sounds (phonemes) in spoken words. A child who possesses phonemic awareness can segment sounds in words and blend strings of isolated sounds together to form recognizable words.

Phonological Awareness—a broad term that includes phonemic awareness. In addition to phonemes, phonological awareness activities can involve work with rhymes, words, syllables, and other onsets and rimes.

Play-Based Environment—~~a teaching-learning~~ An interactive learning environment ~~through~~ in which play is the medium that children learn and make sense of their world. It provides a forum for children to learn to deal with the world on a symbolic level – the foundation for all subsequent intellectual development. In a play-based environment, children have the opportunity to gain a variety of social, emotional and physical skills. This type of environment is in contrast to the environment where learning is compartmentalized into the traditional content areas and children have little opportunity to actively explore, experiment and interact.

Print Concepts—materials, activities, and props, etc. that prompt the ongoing process of becoming literate; that is, learning to read and write. Print concepts include exposure to textual information through books, stories, field trips, notes, labels, signs, chants, etc., and should be part of the emergent-literacy environment of all preschool classrooms.

Props—materials used throughout the classroom to extend learning in any one of the interest areas or centers. Props added to an interest center are generally placed in the area in addition to standards items. Examples of props include: puppets that correlate with stories in the library center or phone books and recipe cards in the dramatic play center. Such props allow children to engage in activities in which they can interact with other children, share and take turns, role-play and exercise their imaginations. Additionally, props added to interest centers help children accept responsibility for clean-up, break barriers for sex/culture stereotyping, and deal with age/stage personal relations.

Rime—the part of a syllable that contains the vowel and all that follows it (the rime of *bag* is *-ag*; of *swim*, *-im*).

Self-Help Tasks or Skills—these skills or tasks comprise a large portion of a young child's daily living tasks and are important in all areas of development. These skills include toileting, serving and eating meals and snacks, cleaning up their environment and grooming and dressing.

Spatial Sense or Spatial Awareness—the sense of orienting to one's environment. A child has sense of awareness in terms of directionality, as well as his/her relationship to self, the environment, and others in that environment.

Standard—The broad outcomes that children should achieve through a high quality preschool experience.

Strand—defines each content area or domain more specifically.

Substantial Portion of the Day—free play/child-initiated activities are available to the children at least one third or 35 percent of the instructional day. For example: During a 6 hour instructional day, these activities are available at least 2 hours of the instructional day.

Syllable—a part of a word that contains a vowel or, in spoken language, a vowel sound.

Teacher-directed Activity—the activities and/or materials are chosen for the children by the teacher to engage in educational interaction with small groups and individual children, as well as with the whole group. (Examples: read a story, cooking activity, or science activity.)

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Chapter 9 Appendices

§901. Appendix A

A. Strategies to support children who are English Language Learners in program activities.

1. English Language Learners (ELL) are those children who speak a language other than English at home. Teachers can support the ELL students in their classes by providing a language-rich environment, by supporting the social/emotional development of the students, and by having an understanding of the cultures of the ELL students. The ELL student who is learning a new language will progress through four developmental stages:

a. Stage 1: Home Language—The children will use their home language in the beginning because that is the only language they know. If there are several children in the class with the same home language, then they may continue to use it among themselves. Home language is important, because research has shown that if ELL children continue to build on their home language while learning a new language, the development of both languages is greatly enhanced.

b. Stage 2: Non-Verbal—Many ELL children will go through a “silent” period, in which they will listen and observe more than they speak. These children will often use gestures to communicate with adults and the other children. The children may also need more time when answering questions, in order to process the meaning of the question and formulate an answer

c. Stage 3: Emerging—The children will begin to use one or two word responses to questions and will also begin to use expressions such as “What’s happening?” or “Wanna play?” This is important because it helps the ELL children become more socially interactive with other children.

d. Stage 4: Productive—Young ELL children will begin to engage in English conversation and use more spontaneous and productive sentences when speaking. There will still be pronunciation errors or an accent when saying certain sounds. They will also have errors in vocabulary, but this is developmental and is common with all young learners of English.

2. The following strategies, though not an exhaustive list, are recommended practices for helping teachers meet the needs of ELL children, as well as their families.

What teachers can do for the children:
<ul style="list-style-type: none"> • Provide a warm, welcoming learning environment • Learn some phrases in the child’s home language that you can use when greeting the child or during daily activities • Encourage children to play and interact with one another • Provide environmental print in English and the home language • Model language by labeling your actions and the child’s actions • Use visual cues or gestures when demonstrating a new skill or concept and repeat instructions more than once • Connect new concepts with familiar experiences • Provide books and songs within the classroom in the child’s home language • At storytime, choose repetitive books or books with simpler language • Establish and maintain daily routines and schedules • Organize small group activities exclusively for your ELL children • Provide props in dramatic play that represent the child’s culture • Provide an English-speaking buddy or partner for the ELL child • Provide a quiet space in the classroom where the children can use manipulatives, puzzles, or playdough
What teachers can do for the families:
<ul style="list-style-type: none"> • Understand the importance of the role you play and the impression you make on the family • Show interest in the child’s family and culture • Gain information and knowledge about the child’s community and culture • Have an open door policy • Use informal notes and phone calls to communicate with the family (you may need to use an interpreter) • Post information on a bulletin board for parents in or near the classroom and include a display of children’s artwork or photos • Develop family-friendly newsletters with pictures and photos • Invite the families to the classroom to share their culture with the children • Organize family and community meetings and gatherings to learn more about cultural values and beliefs • Consider home visits • Encourage families to continue the use of the native language at home • Consider the dietary, cultural and religious practices associated with the culture of the family when planning events

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§903. Appendix B

A. Strategies for Including Children with Special Needs in Program Activities

1. There are many ways of adapting or modifying activities for children with special needs, including those with disabilities and those whose home language is other than English. It is important that every staff member consider the uniqueness of each child and that all children have different approaches, preferences and skill levels. The following strategies, though not an exhaustive list, are recommended practices for helping teachers meet the diverse needs of each of their students.

Cognitive Delays or Learning Challenges
<ul style="list-style-type: none"> • Reduce distractions (background noise, clutter, etc.); provide access to areas that are quiet and offer relief from pressures of the environment • Give clear instructions, repeat and demonstrate when necessary; combine verbal, visual cues • Use concrete materials/experiences; use modeling and demonstrations • Break down difficult tasks into smaller parts; make suggestions that give cues or choices for next steps in an activity • Establish routines without being rigid; post picture and word sequences of schedules and routines • Plan for and limit the number of transitions • Allow time for meaningful repetition and practice • Provide encouragement and frequent feedback • Model appropriate use of materials, tools and activities in classroom

Hearing Impairments
<ul style="list-style-type: none"> • Get children's attention and use visual cues • Face children when possible, and use clear voice and facial expressions • Use objects or pictures to demonstrate what is being talked about • Provide many opportunities for communication with adults and peers • Give feedback to be sure messages are understood • Limit background noise and other auditory distractions • Use other forms of communication, such as gestures, printed words, objects when needed • Learn about adaptive aids or communication systems children use; learn basic signs to communicate and to model appropriate behaviors • Sing along with tapes, CDs, etc. to encourage children to lip read
Orthopedic, Motor or other Health Challenges
<ul style="list-style-type: none"> • Adapt/modify materials, equipment, toys, etc. by stabilizing/enlarging them, adding handles or grips; use adapted battery or electric operated toys/materials • Ensure that environment accommodates wheelchairs, body boards, etc.; monitor pathways/floor space to promote accessibility and movement • Keep classroom uncluttered; ensure easy access to shelves, cubbies, sinks, etc. • Learn about adaptive equipment; seek inexpensive solutions if adaptive equipment is not available (e.g., support child's feet, by using a telephone book as a footrest, tray on walker to move toys) • Provide additional time for children to get to materials/activities • Use non-locomotor movement activities, such as moving arms, even when feet are in place
Communication Challenges
<ul style="list-style-type: none"> • Plan many experiences/opportunities that motivate children to give and receive messages with adults and peers • Verbalize what children tell you with their actions; ask open-ended questions • Add new information slowly and clearly; give only one verbal direction at a time • Provide language experiences with repetitive sounds, phrases, sentences, rhymes, chants, etc. • Staff should be familiar with any AAC (augmentative and alternative communication systems) used by children • Repeat and expand on children's thinking; introduce concepts and add new information slowly and clearly • Support children's communication in other areas, such as writing or drawing
Visual Impairments
<ul style="list-style-type: none"> • Evaluate the environment, including the lighting, to ensure that pathways are unobstructed, furnishings are consistently located and materials are positioned so children can see them clearly • Describe and label demonstrations, objects or events that children cannot readily see • Give clear and specific directions, using children's names; provide additional directional language when possible (<i>near, forward, next to, etc.</i>) • Use pictures/books that are bold and uncluttered; try to use high-contrast colors (black and yellow or black and orange) • Use auditory or tactile cues; plan activities to help children strengthen all of their senses • Use large, clear, tactile labels to identify materials, activities, etc.
Challenging Behaviors/Emotional Disturbances
<ul style="list-style-type: none"> • Provide a warm, inviting, and supportive classroom atmosphere; have appropriate expectations of children's behaviors • Establish consistent routines and transitions; limit waiting or unoccupied time between activities • Limit classroom rules; establish clear consequences for violations and follow through on them; use positive guidance techniques • Anticipate problems and have action plans in place to avoid them; develop signals for when particular behaviors should stop or when a child needs help • Model and role-play appropriate social behaviors and coping strategies; label feelings behind children's actions and help children to label the feelings themselves • Provide soft lighting, cozy spaces and calming activities (e.g. water play, soothing music)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, PO. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 105—Louisiana
Content Standards for Programs Serving
Four-Year Old Children**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
It is the policy of the Board of Elementary and Secondary Education that content standards be reviewed and possibly revised at least every seven years. These changes will not result in an increase in costs or savings to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to schools or school districts.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1010#066

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

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

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum Instruction (LAC 28: CXV.2318 and 2319)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 741—Louisiana Handbook for School Administrators*: §2318. The College and Career Diploma and §2319. The Career Diploma. These policy changes require the EOC tests scores to count a percentage of the students’ final course grades. This requirement was recommended by the High School Redesign Commission. Also changed is the test requirement for the diploma endorsements. This change is necessitated by the switch to EOC tests.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum Instruction

§2318. The College and Career Diploma

A. - B.1.c. ...

2. For incoming freshmen in 2010-2011 and beyond, students must meet the assessment requirements below to earn a standard diploma.

a. Students must pass three end-of-course tests in the following categories:

- i. English II or English III;
- ii. Algebra I or Geometry;
- iii. Biology or American History.

b. Students enrolled in a course for which there is an EOC test must take the EOC test.

i. The EOC test score shall count a percentage of the student’s final grade for the course.

ii. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

iii. The grades assigned for the EOC test achievement levels shall be as follows.

EOC Achievement Level	Grade
Excellent	A
Good	B
Fair	C
Needs Improvement	D or F

iv. The DOE will provide conversion charts for various grading scales used by LEAs.

c. For students with disabilities who have passed two of the three required end-of-course tests and have exhausted all opportunities available through the end of the twelfth grade to pass the remaining required end-of-course test, that end-of-course test may be waived by the State Superintendent of Education if the Department of Education determines the student's disability significantly impacts his/her ability to pass the end-of-course test.

B.3. - C.5.a.i. ...

* * *

- ii. Assessment Performance Indicator
 - (a) Students graduating prior to 2013-2014 shall pass all four components of GEE with a score of *Basic* or above, or one of the following combinations of scores with the English language arts score at *Basic* or above:
 - (i) one *Approaching Basic*, one *Mastery* or *Advanced*, *Basic* or above in the remaining two; or
 - (ii) two *Approaching Basic*, two *Mastery* or above.
 - (b) Students graduating in 2013-2014 and beyond shall achieve a score of *Good* or *Excellent* on each of the following EOC tests:
 - (i). English II and English III;
 - (ii). Algebra I and Geometry;
 - (iii). Biology and American History.

- iii. Students shall complete one of the following requirements:
 - (a). senior project;
 - (b) one Carnegie unit in an AP course with a score of three or higher on the AP exam;
 - (c) one Carnegie unit in an IB course with a score of four or higher on the IB exam; or
 - (d) three college hours of non-remedial, articulated credit in mathematics, social studies, science, foreign language, or English language arts.

- iv. Students shall meet the current minimum grade-point average requirement for the TOPS Opportunity Award.
- v. Students shall achieve an ACT Composite Score of at least 23 or the SAT equivalent.

6. Career/Technical Endorsement

a. Students who meet the requirements for a College and Career diploma and satisfy the following performance indicators shall be eligible for a career/technical endorsement to the College and Career diploma.

i. Students graduating prior to 2011-2012 shall meet the current course requirements for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2010-2011 and beyond shall meet the course requirements for the Louisiana Core 4 Curriculum.

ii. Students shall complete the career area of concentration.

iii. Assessment Performance Indicator

(a). Students graduating prior to 2009-2010 shall pass the English language arts, mathematics, science, and social studies components of the GEE 21 at the *Approaching Basic* level or above. Students graduating in 2009-2010 and beyond prior to 2013-2014 shall pass all four components of the GEE with a score of basic or above OR one of the following combinations with the English language arts score at basic or above:

- (i). one approaching basic, one mastery or advanced, and basic or above in the remaining two;
- (ii) two approaching basic, two mastery or above.

(b) Students graduating in 2013-2014 and beyond shall achieve a score of *Good* or *Excellent* on each of the following EOC tests:

- (i). English II and English III;
- (ii). Algebra I and Geometry;
- (iii). Biology and American History.

iv. Students shall complete a minimum of 90 work hours of work-based learning experience related to the student's area of concentration (as defined in the *LDE Diploma Endorsement Guidebook*) or senior project related to student's area of concentration with 20 hours of related work-based learning and mentoring and complete one of the following requirements:

(a). industry-based certification in student's area of concentration from the list of industry-based certifications approved by BESE; or

(b). three college hours in a career/technical area that articulate to a postsecondary institution, either by actually obtaining the credits and/or being waived from having to take such hours in student's area of concentration.

v. Students shall achieve a minimum GPA of 2.5.

vi. Students graduating prior to 2008-2009 shall achieve the current minimum ACT Composite Score (or SAT Equivalent) for the TOPS Opportunity Award or the TOPS Tech Award. Students graduating in 2008-2009 and beyond shall achieve a minimum ACT Composite Score (or SAT Equivalent) of 20 or the state ACT average (whichever is higher) or the Silver Level on the WorkKeys Assessment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.2; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 37:

§2319. The Career Diploma

A. - B.1.c. ...

2. For incoming freshmen in 2010-2011 and beyond, students must meet the assessment requirements below to earn a high school diploma.

a. Students must pass three end-of-course tests in the following categories:

- i. English II or English III;
- ii. Algebra I or Geometry;
- iii. Biology or American History.

b. Students enrolled in a course for which there is an EOC test must take the EOC test.

i. The EOC test score shall count a percentage of the student's final grade for the course.

ii. The percentage shall be between 15 percent and 30 percent inclusive, and shall be determined by the LEA.

iii. The grades assigned for the EOC test achievement levels shall be as follows.

EOC Achievement Level	Grade
Excellent	A
Good	B
Fair	C
Needs Improvement	D or F

iv. The DOE will provide conversion charts for various grading scales used by LEAs.

c. For students with disabilities who have passed two of the three required end-of-course tests and have exhausted all opportunities available through the end of the twelfth grade to pass the remaining required end-of-course test, that end-of-course test may be waived by the State

Superintendent of Education if the Department of Education determines the student's disability significantly impacts his/her ability to pass the end-of-course test.

B.3. - C.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R. S. 17:183.1et seq.; R.S. 17: 395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 9, 2010, to: Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 741—Louisiana Handbook for School Administrators—Curriculum Instruction

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

These policy changes require the End-of-course(EOC) tests scores to count a percentage of the students' final course grades. This requirement was recommended by the High School Redesign Commission. Also changed is the test requirement for the diploma endorsements. This change is necessitated by the switch to End-of-coursetests. These changes will not result in an increase in costs or savings to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs or economic benefits to schools or school districts.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1010#067

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel
(LAC 28:CXXXI.Chapters 2 and 6)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements); §235. The Master’s Degree Program Alternative Path to Certification (Minimum Requirements); §237. Certification-Only Program Alternative Path to Certification; §241. PRAXIS I Scores; §243. ACT/SAT Scores in Lieu of PRAXIS I Scores; §625. Requirements to add Early Interventionist Birth to Five Years; §627. Requirements to add Hearing Impaired K-12; §629. Requirements to add Mild/Moderate; §630. Requirements to add Mild/Moderate (1-5), (4-8), and (6-12) – Mandatory 7/1/2010; §631. Requirements to add Significant Disabilities 1-12; and §633. Requirements to add Visual Impairments/Blind K-12. This revision in policy will allow the replacement of the current special education pedagogy exams in early interventionist, hearing impaired, mild/moderate, visually impaired and significant disabilities with new editions of the following Praxis exams: Special Education: Core Knowledge and Applications (#0354), Special Education: Core Knowledge Mild to Moderate Applications (#0543), and Special Education: Core Knowledge and Severe to Profound Applications (#0545). The current Praxis exams required for Louisiana licensure in early interventionist, hearing impaired, mild/moderate, visually impaired and significant disabilities will be phased out by Educational Testing Service.

**Title 28
EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel
Chapter 2. Louisiana Teacher Preparation Programs
Subchapter B. Alternate Teacher Preparation Programs
§233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)**

A. - H. ...

I. Program requirements must be met within a three year time period. For certification purposes, private providers and colleges or universities will submit signed statements to the Department of Education indicating that the student

completing the Practitioner Teacher Program alternative certification path met the following requirements:

1. passed the PPST components of the Praxis (Note: This test was required for admission.);

2. completed all program requirements including the internship with a 2.50 or higher GPA (this applies to candidates in a university program);

3. completed prescriptive plans (if weaknesses were demonstrated);

4. passed the Praxis specialty examination for the area(s) of certification. (Note: This test was required for admission);

a. grades PK-3: Elementary Education: Content Knowledge (#0014);

b. grades 1-5 (regular and special education): Elementary Education: Content Knowledge (#0014);

c. grades 4-8 (regular and special education): Middle school subject-specific licensing examination(s) for the content area(s) to be certified;

d. grades 6-12 (regular and special education): Secondary subject-specific examination(s) for the content area(s) to be certified. General-Special Education Mild/Moderate candidates must pass a Praxis core subject area exam (English/language arts, foreign language, mathematics, the sciences, or social studies). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

e. all-level K-12 areas (art, dance, foreign language, health and physical education, and music): Subject-specific examination(s) for content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

5. passed the pedagogy examination (Praxis):

a. grades PK-3: Principles of Learning and Teaching Early Childhood (#0521)

b. grades 1-5: Principles of Learning and Teaching K-6 (#0522);

c. grades 4-8: Principles of Learning and Teaching 5-9 (#0523);

d. grades 6-12: Principles of Learning and Teaching 7-12 (#0524);

e. all-level K-12 Certification: Principles of Learning and Teaching K-6, 5-9, or 7-12;

f. general-special education mild/moderate: Special Education: Core Knowledge and Mild to Moderate Applications (#0543); In addition to one of the following aligned to candidates grade level:

i. grades 1-5: Principles of Learning and Teaching K-6 (#0522);

ii. grades 4-8: Principles of Learning and Teaching 5-9 (#0523);

iii. grades 6-12: Principles of Learning and Teaching 6-12 (#0524);

I.6. - L. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006),

amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 37:

§235. The Master's Degree Program Alternative Path to Certification (Minimum Requirements)

A. - D.5.a. ...

E. Certification Requirements. Colleges/universities will submit signed statements to the Louisiana Department of Education indicating that the student completing the Master's Degree Program alternative certification path met the following requirements:

1. passed PPST components of Praxis (as required for admission);

2. completed all coursework in the Master's Degree alternate certification program with a 2.50 or higher grade point average (GPA);

3. passed the specialty examination (Praxis) for the area of certification (this test was required for admission):

a. grades PK-3 (regular education)—Elementary Education: Content Knowledge (#0014);

b. grades 1-5 (regular education and mild/moderate)—Elementary Education: Content Knowledge (#0014);

c. grades 4-8 (regular education and mild/moderate)—Middle school subject-specific licensing examination for content area to be certified;

d. grades 6-12 (regular education and mild/moderate)—Secondary subject-specific examination for content area(s) to be certified. General-Special Education Mild/Moderate candidates must pass a Praxis core subject area exam (English/language arts, foreign language, mathematics, the sciences, or social studies). If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

e. all-level K-12 Certification—Subject-specific examination for content area(s) to be certified. If no examination has been adopted for Louisiana in the certification area, candidates must present a minimum of 31 semester hours of coursework specific to the content area for admission to the program;

f. Special Education Early Interventionist (Birth to Five Years), Significant Disabilities 1-12, Hearing Impaired K-12, and Visual Impairments/Blind K-12—Elementary Education: Content Knowledge (#0014) specialty examination;

4. passed the pedagogy examination (Praxis):

a. grades PK-3 Principles of Learning and Teaching Early Childhood (#0521);

b. grades 1-5—Principles of Learning and Teaching K-6 (#0522);

c. grades 4-8—Principles of Learning and Teaching 5-9 (#0523);

d. grades 6-12—Principles of Learning and Teaching 7-12 (#0524);

e. all-level K-12 Certification—Principles of Learning and Teaching K-6, 5-9, or 7-12;

f. General-Special Education Mild/Moderate—Special Education: Core Knowledge and Mild to Moderate Applications (#0543); In addition to one of the following aligned to candidates grade level:

i. grades 1-5: Principles of Learning and Teaching K-6 (#0522);

ii. grades 4-8: Principles of Learning and Teaching 5-9 (#0523);

iii. grades 6-12: Principles of Learning and Teaching 6-12 (#0524);

g. Special Education Early Interventionist Birth to Five Years—Special Education: Core Knowledge and Applications (#0354) and Principles of Learning and Teaching: Early Childhood (#0521)

h. Special Education Significant Disabilities 1-12—Special Education: Core Knowledge and Severe to Profound Applications (#0545)

i. Special Education Hearing Impaired K-12—Special Education: Core Knowledge and Applications (#0354) and Education of Exceptional Students: Hearing Impairment (#0271);

j. Special Education Visual Impairments/Blind K-12—Special Education: Core Knowledge and Applications (#0354);

5. - 5.b....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1792 (October 2006), amended LR 35:1480 (August 2009), LR 37:

§237. Certification-Only Program Alternative Path to Certification

A. - D.7. ...

E. Licensure Requirements

1. Practitioner License (PL2)—a program candidate that is hired as a full-time teacher in an approved Louisiana school will be issued a Practitioner License 2. This license is issued at the request of the Louisiana employing school system for a specific grade level and content area once successful completion of the classroom readiness component has been verified. The teacher is restricted to the specific grade level and content area as designated on the Practitioner License 2.

2. Standard Professional License—a standard Level certificate may be issued after the applicant has:

a. completed all program requirements with a 2.50 or higher GPA (this applies to candidates in a university program); and

b. passed the pedagogy examination (Praxis):

i. grades PK-3—Principles of Learning and Teaching Early Childhood (#0521);

ii. grades 1-5—Principles of Learning and Teaching K-6 (#0522);

iii. grades 4-8—Principles of Learning and Teaching 5-9 (#0523);

iv. grades 6-12—Principles of Learning and Teaching 7-12 (#0524);

v. all-level K-12 certification—Principles of Learning and Teaching K-6, 5-9, or 7-12;

vi. Special Education Early Interventionist Birth to Five Years—Special Education: Core Knowledge and Applications and Principles of Learning and Teaching Early Childhood (#0521);

vii. Special Education Significant Disabilities 1-12—Special Education: Core Knowledge and Severe to Profound Applications (#0545);

viii. Special Education Hearing Impaired K-12—Special Education: Core Knowledge and Applications (#0354) and Education of Exceptional Students: Hearing Impairment (#0271);

ix. Special Education Visual Impairments/Blind K-12—Special Education: Core Knowledge and Applications (#0354);

c. completed all requirements of the Certification-Only Alternative Certification path as verified to the

Louisiana Department of Education by the program provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1794 (October 2006), amended LR 35:1482 (August 2009), LR 37:

§241. PRAXIS I Scores

A. - C.2. ...

D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score
All Special Education Area(s)			Prior to 6/1/04: PLT K-6 (161), PLT 5-9 (154) or PLT 7-12 (161)	
Early Interventionist	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04 Educ. of Exceptional Students: Core Content Knowledge (0353) and Early Childhood Education (0020) Effective 7/1/05 Principles of Learning and Teaching: Early Childhood (0521) Effective 1/1/08 Special Education: Core Knowledge and Applications (0354) and Principles of Learning and Teaching: Early Childhood (0521) Effective 1/1/11	143 143 510 172 145 172
Hearing Impaired	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) and Educ. of Deaf and Hard of Hearing Students (0271) Effective 6/1/04 Special Education: Core Knowledge and Applications (0354) and Education of Deaf and Hard of Hearing Students (0271) Effective 1/1/11	143 160 145 160
Mild to Moderate Disabilities	Effective 6/1/04 ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 (e.g., 0014, or core subject-specific exams for middle or secondary grades) Prior to 6/1/04, a content area exam was required only for entry into a Mild/ Moderate 1-12 Practitioner Teacher Program, Non-Master's Certification-Only Alternate Program, and Master's Alternate Program.	150	*Educ. of Exceptional Students: Core Content Knowledge (0353) and Educ. of Exceptional Students: Mild/Moderate Disabilities (0542) Effective 6/1/04 *Note: (0353) and (0542) are not content area exams. Special Education: Core Knowledge and Mild to Moderate Applications (0543) Effective 1/1/11	143 141 153
Significant Disabilities	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) and Educ. of Exceptional Students: Severe to Profound Disabilities (0544) Effective 6/1/04 Special Education: Core Knowledge and Severe to Profound Applications (0545) Effective 1/1/11	143 147 153
Visual Impairments/Blind	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04 Special Education: Core Content Knowledge and Applications (0354) Effective 1/1/11	143 145

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1836 (October 2006),

amended LR 33:2355 (November 2007), LR 35:644 (April 2009), LR 36:484 and 487 (March 2010), LR 37:

§243. ACT/SAT Scores in Lieu of PRAXIS I Scores

A. - C.2. ...

D. Special Education Areas

Area	Content Exam	Score	Pedagogy Requirement	Score
All Special Education Area(s)			Prior to 6/1/04: PLT K-6 (161), PLT 5-9 (154) OR PLT 7-12 (161)	
Early Interventionist	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04 Educ. of Exceptional Students: Core Content Knowledge (0353) and Early Childhood Education (0020) Effective 7/1/05 Special Education: Core Knowledge and Applications (0354) and Principles of Learning and Teaching: Early Childhood (0521) Effective 1/1/11	143 143 510 145 172
Hearing Impaired	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) and Educ. of Deaf and Hard of Hearing Students (0271) Effective 6/1/04 Special Education: Core Knowledge and Applications (0354) and Education of Deaf and Hard of Hearing Students (0271) Effective 1/1/11	143 160 145 160
Mild to Moderate Disabilities	Effective 6/1/04 ALL Candidates must pass a content area exam appropriate to certification level 1-5, 4-8, 6-12 (e.g., 0014, or core subject-specific exams for middle or secondary grades) Prior to 6/1/04, a content area exam was required only for entry into a Mild/ Moderate 1-12 Practitioner Teacher Program, Non-Master's Certification-Only Alternate Program, and Master's Alternate Program.		*Educ. of Exceptional Students: Core Content Knowledge (0353) and Educ. of Exceptional Students: Mild/Moderate Disabilities (0542) Effective 6/1/04 *Note: (0353) and (0542) are not content area exams. Special Education: Core Knowledge and Mild to Moderate Applications (0543) Effective 1/1/11	143 141 153
Significant Disabilities	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) and Educ. of Exceptional Students: Severe to Profound Disabilities (0544) Effective 6/1/04 Special Education: Core Knowledge and Severe to Profound Applications (0545) Effective 1/1/11	143 147 153
Visual Impairments/Blind	Elementary Education: Content Knowledge (0014) Effective 7/1/05	150	Educ. of Exceptional Students: Core Content Knowledge (0353) Effective 6/1/04 Special Education: Core Content Knowledge and Applications (0354) Effective 1/1/11	143 145

E. ...

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 36:485 and 488 (March 2010), LR 37:

Chapter 6. Endorsements to Existing Certificates
Subchapter B. Special Education Level and Area
Endorsements

§625. Requirements to add Early Interventionist Birth to Five Years

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. passing score for Praxis exams: Principles of Learning and Teaching; Early Childhood (#0521) and Special Education: Core Content Knowledge and Applications (#0354);
2. 18 credit hours that pertain to infants, toddlers, and preschoolers, as follows:
 - a. foundations in early childhood education and early intervention;
 - b. understanding and working with families of young children;

- c. assessment in early intervention;
 - d. early intervention methods;
 - e. teaming, physical and medical management in early intervention;
 - f. communication and literacy in early intervention;
3. nine semester hours of reading coursework.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1817 (October 2006), LR 37:

§627. Requirements to add Hearing Impaired K-12

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 21 semester credit hours that pertain to children with hearing impairments, as follows:
 2. introduction to special education;
 3. physiological, psychosocial, historical, sociological, and cultural aspects of deafness;
 4. language development that includes linguistic principles and assessment strategies in language acquisitions for deaf and hard of hearing;
 5. speech and speech reading;

6. educational audiology, auditory assistive devices and technology;
7. instructional strategies and curriculum development for deaf and hard of hearing students;
8. communication methodology.

B. Three semester hours of internship of students with hearing impairments; or three years of successful teaching experience of students with hearing impairments.

C. Proficiency in signed, cued, or oral communication, as evidenced by one or more of the following means:

1. signed: one of the following:
 - a. Intermediate on the Educational Sign Skills Evaluation: Teacher (ESSE:T);
 - b. Advanced on the Signed Communication Proficiency Interview (SCPI);
 - c. Level III of the Educational Interpreter Performance Assessment;
2. cued: mini-proficiency, as measured on the Basic Cued Speech Proficiency Rating Test (BCSPR c1983, Beaupre); or
3. oral: successfully passing an additional course in Methods in Oral/Auditory Education.

D. Passing score for Praxis exams: Special Education: Core Content Knowledge and Applications (#0354) and Education of Exceptional Students: Hearing Impairment (#0271).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1817 (October 2006); LR 37:

§629. Requirements to add Mild/Moderate

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or an All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 15 semester hours of special education coursework, as follows:
 - a. methods/materials for mild/moderate exceptional children;
 - b. assessment and evaluation of exceptional learners;
 - c. behavioral management of mild/moderate exceptional children;
 - d. vocational and transition services for students with disabilities;
 - e. practicum in assessment and evaluation of M/M exceptional learners; or three years of successful teaching experience in Mild/Moderate;
2. passing score for Praxis exams: Special Education: Core Knowledge and Mild to Moderate Applications (#0543);
3. individuals who have completed all stipulations listed above will have until 7/1/2010 to have this endorsement added to their standard teaching certificate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1817 (October 2006), amended LR 35:221 (February 2009), LR 35:1485 (August 2009), LR 37:

§630. Requirements to add Mild/Moderate (1-5), (4-8) and (6-12)—Mandatory 7/1/2010

A. Mild/Moderate: 1-5—Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), or Early Interventionist certificate must achieve the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities—three semester hours. This course is designed for teachers to learn how to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings. Students are required to apply knowledge and skills in a 45-hour field-based experience. Theoretical approaches, screening/identification, educational placement considerations, and assessment and evaluation issues will be addressed;

b. Fundamentals of Instructional Technology—three semester hours- Instructional, utility, and management software applications for school use. Development of instructional materials, incorporation of commercially available software into lesson and unit structure. Addresses the use of technology as it relates to UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Behavior Support and Intervention—three semester hours. This course should address the knowledge, skills and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

d. Collaborative Teaming—three semester hours. This course should focus on developing effective partnerships with parents, family members, general educators and related service providers;

e. Instructional Practices in Special Education—three semester hours. This course should provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address the strengths and needs of diverse learners in grades 1-5;

f. Reading and Literacy—three semester hours. This course should cover all aspects of state reading competencies at the elementary level, to include literacy intervention for students with disabilities;

2. passing score for Praxis exams—Special Education: Core Knowledge and Mild to Moderate Applications (#0543).

B. Mild/Moderate: 1-5—Individuals holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), all-level special education certificate (Significant Disabilities, Visually Impaired or Hearing Impaired), or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities—three semester hours. This course is designed for teachers to learn how to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings. Students are required to apply knowledge and skills in a 45-hour field-based experience. Theoretical approaches, screening/identification, educational placement considerations, and assessment and evaluation issues will be addressed;

b. Fundamentals of Instructional Technology—three semester hours. Instructional, utility, and management software applications for school use. Development of instructional materials, incorporation of commercially available software into lesson and unit structure. Addresses the use of technology as it relates to UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Behavior Support and Intervention—three semester hours. This course should address the knowledge, skills and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

d. Collaborative Teaming—three semester hours. This course should focus on developing effective partnerships with parents, family members, general educators and related service providers;

e. Instructional Practices in Special Education—three semester hours. This course should provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address the strengths and needs of diverse learners in grades 1-5;

f. Reading and Literacy—three semester hours. This course should cover all aspects of state reading competencies at the elementary level, to include literacy intervention for students with disabilities;

2. passing score for Praxis exams—Special Education: Core Knowledge and Mild to Moderate Applications (#0543), Principles of Learning and Teaching (PLT): K-6, and Elementary Content Knowledge Exam (0014).

C. Mild/Moderate: Middle Grades 4-8 and Secondary 6-12. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), or Early Interventionist certificate must achieve the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities—three semester hours. This course is designed for teachers to learn how to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings. Students are required to apply knowledge and skills in a 45-hour field-based experience. Theoretical approaches, screening/identification, educational placement considerations, and assessment and evaluation issues will be addressed;

b. Fundamentals of Instructional Technology—three semester hours. Instructional, utility, and management software applications for school use. Development of instructional materials, incorporation of commercially available software into lesson and unit structure. Addresses the use of technology as it relates to UDL (Universal Design

for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Self-Determination and Transition—three semester hours. This course presents self-determination and development, implementation, and evaluation of self-management instructional programs for students. Emphasis is upon using self-management and learning strategies to facilitate self-determination. Provides the teacher with an understanding of the special education transition process as specified by federal and state guidelines and the focus on the design and implementation of transition planning that meets students' physical, affective, cognitive and communicative needs across the contexts of school, community, family life, career and vocation and recreation/leisure;

d. Behavior Support and Intervention—three semester hours. This course should address the knowledge, skills and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

e. Collaborative Teaming—three semester hours. This course should focus on developing effective partnerships with parents, family members, general educators and related service providers;

f. Instructional Practices in Special Education—three semester hours. This course should provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address strengths and needs of diverse learners in grades 6-12 with concentration in areas of literacy and numeracy;

2. passing score for Praxis exams:

a. Mild/Moderate (4-8) and (6-12)—Special Education: Core Knowledge and Mild to Moderate Applications (#0543); and

b. Mild/Moderate (4-8)—Principles of Learning and Teaching (PLT): 5-9 and Middle School Content Exam(s); or

c. Mild/Moderate (6-12)—Principles of Learning and Teaching (PLT): 7-12 and High School Content Exam(s).

D. Mild/Moderate: Middle Grades 4-8 and Secondary 6-12. Individuals holding a valid upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8) must achieve the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities—three semester hours. This course is designed for teachers to learn how to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings. Students are required to apply knowledge and skills in a 45-hour field-based experience. Theoretical approaches, screening/identification, educational placement considerations, and assessment and evaluation issues will be addressed;

b. Fundamentals of Instructional Technology—three semester hours. Instructional, utility, and management software applications for school use. Development of instructional materials, incorporation of commercially available software into lesson and unit structure. Addresses the use of technology as it relates to UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Self-Determination and Transition—three semester hours. This course presents self-determination and development, implementation, and evaluation of self-management instructional programs for students. Emphasis is upon using self-management and learning strategies to facilitate self-determination. Provides the teacher with an understanding of the Special Education transition process as specified by federal and state guidelines and the focus on the design and implementation of transition planning that meets students' physical, affective, cognitive and communicative needs across the contexts of school, community, family life, career and vocation and recreation/leisure;

d. Behavior Support and Intervention—three semester hours. This course should address the knowledge, skills and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

e. Collaborative Teaming—three semester hours. This course should focus on developing effective partnerships with parents, family members, general educators and related service providers;

f. Instructional Practices in Special Education—three semester hours. This course should provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address strengths and needs of diverse learners in grades 6-12 with concentration in areas of literacy and numeracy;

2. passing score for Praxis exams:

a. Mild/Moderate (4-8) and (6-12)—Special Education: Core Knowledge and Mild to Moderate Applications (#0543); and/or

b. Mild/Moderate (6-12)—Principles of Learning and Teaching (PLT): 7-12 and High School Content Exam(s).

E. Mild/Moderate: Middle Grades 4-8 and Secondary 6-12. Individuals holding a valid secondary certificate (e.g., 6-12, 7-12, 9-12), all-level special education certificate (Significant Disabilities, Visually Impaired, or Hearing Impaired), or an all-level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 18 semester hours to include the following coursework:

a. Assessment and Evaluation of Students with Disabilities—three semester hours. This course is designed for teachers to learn how to select, adapt, and use instructional interventions and behavioral strategies with students in a variety of settings. Students are required to apply knowledge and skills in a 45-hour field-based experience. Theoretical approaches, screening/identification, educational placement considerations, and assessment and evaluation issues will be addressed;

b. Fundamentals of Instructional Technology—three semester hours. Instructional, utility, and management software applications for school use. Development of instructional materials, incorporation of commercially available software into lesson and unit structure. Addresses the use of technology as it relates to UDL (Universal Design for Learning) and how UDL can be used to meet the needs of all students with language development issues;

c. Self-Determination and Transition—three semester hours. This course presents self-determination and

development, implementation, and evaluation of self-management instructional programs for students. Emphasis is upon using self-management and learning strategies to facilitate self-determination. Provides the teacher with an understanding of the Special Education transition process as specified by federal and state guidelines and the focus on the design and implementation of transition planning that meets students' physical, affective, cognitive and communicative needs across the contexts of school, community, family life, career and vocation and recreation/leisure;

d. Behavior Support and Intervention—three semester hours. This course should address the knowledge, skills and dispositions necessary for teachers to proactively and systematically address student needs that underlie the presence of problem behaviors in schools and class rooms;

e. Collaborative Teaming—three semester hours. This course should focus on developing effective partnerships with parents, family members, general educators and related service providers;

f. Instructional Practices in Special Education—three semester hours. This course should provide teachers with the ability to select and utilize appropriate instructional strategies, assistive technologies, and instructional materials to address strengths and needs of diverse learners in grades 6-12 with concentration in areas of literacy and numeracy;

2. passing score for Praxis exams:

a. Mild/Moderate (4-8) and (6-12)—Special Education: Core Knowledge and Mild to Moderate Applications (#0543); and/or

b. Mild/Moderate (4-8)—Principles of Learning and Teaching (PLT): 5-9 and Middle School Content Exam(s).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:1485 (August 2009), amended LR 37:

§631. Requirements to add Significant Disabilities 1-12

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 21 semester hours that pertain to children with significant disabilities, as follows:

a. assessment and evaluation;

b. curriculum development, modifications, and transition planning;

c. behavior support;

d. instructional strategies;

e. communication;

f. collaborative techniques and family partnerships;

g. characteristics of students with significant disabilities, physical support, health and safety;

2. three semester hours of internship of students with significant disabilities; or three years of successful teaching experience of students with significant disabilities; and

3. passing score for Praxis exams: Special Education: Core Knowledge and Severe to Profound Applications (#0545).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1818 (October 2006), amended LR 37:

§633. Requirements to add Visual Impairments/Blind K-12

A. Individuals holding a valid early childhood certificate (e.g., PK-K, PK-3), elementary certificate (e.g., 1-4, 1-5, 1-6, 1-8), upper elementary or middle school certificate (e.g., 4-8, 5-8, 6-8), secondary certificate (e.g., 6-12, 7-12, 9-12), special education certificate, or All-Level K-12 certificate (art, dance, foreign language, health, physical education, health and physical education, and music) must achieve the following:

1. 21 semester hours that pertain to children with visual impairments:
 - a. educational implications of low vision and blindness;
 - b. orientation and mobility for the classroom teacher;
 - c. assessment and evaluation techniques, including functional vision evaluation and reading media assessment;
 - d. assistive technology for students with visual impairments;
 - e. instructional strategies and materials for students with visual impairments;
 - f. introduction to Braille, including literary and Nemeth codes;
 - g. Braille II;
2. three semester hours of internship of students who are visually impaired; or three years of successful teaching experience of students who are visually impaired or blind;
3. a passing score for Praxis Special Education: Core Knowledge and Applications (#0354).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1818 (October 2006), amended LR 37:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 9, 2010, to: Nina A. Ford, State Board of Elementary and Secondary Education, P. O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revision in policy will allow the replacement of the current special education pedagogy exams in early interventionist, hearing impaired, mild/moderate, visually impaired and significant disabilities with new editions of the following Praxis exams: Special Education: Core Knowledge and Applications (#0354), Special Education: Core Knowledge Mild to Moderate Applications (#0543), and Special Education: Core Knowledge and Severe to Profound Applications (#0545). The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The policy revisions will reduce the number of Praxis exams required for individuals pursuing Louisiana teacher licensure in mild/moderate and significant disabilities, which will reduce costs for individuals taking these exams.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1010#068

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 746—Louisiana Standards for State Certification of School Personnel—Louisiana Teacher Assistance and Assessment Program (LaTAAP)
(LAC 28:CXXXI.233, 303, 305, 307, 309, 315, and 1003)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements); §303. Introduction, §305. Professional Leel Certificates, §307. Type C, B, and A Certificates, §309. Out-of-State (OS) Certificate, §315.

Standard Certificates for Teachers in Nonpublic Schools, and §1003. Acronyms.

This revision in policy of Bulletin 746 will align the states new evaluation program with standards contained in Act 54 of the 2010 Louisiana Legislative Session which repeals the Louisiana Teacher Assistance and Assessment Program (LaTAAP). This revision in Bulletin 746 clarifies the new evaluation process.

Title 28 EDUCATION

Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

Chapter 2. Louisiana Teacher Preparation Programs

Subchapter B. Alternate Teacher Preparation Programs

§233. The Practitioner Teacher Program Alternative Path to Certification (Minimum Requirements)

A. - C.7. ...
D. Teaching Internship and First-Year Support (12 credit hours or equivalent 180 contact hours)

1. ...
2. For all-level areas (art, dance, foreign language, health and physical education, and music), field experiences should be provided across grades K-12.

3. For General-Special Education Mild/Moderate Grades 1-5, Grades 4-8 and Grades 6-12 seminars will cover instructional strategies in core content areas, state reading competencies with alignment to state literacy plan; numeracy strategies; classroom management; lesson plans—development and implementation; assessment; collaboration between special education and general education (e.g., co-planning, co-teaching, behavior intervention, accommodations, services/support); collaboration with parents; and data-driven decision making or any other identified needs. Technology will be addressed in all grade levels.

D.4. - J. ...
K. Professional License. A practitioner teacher will be issued a practitioner license in a specific level and area upon entrance to the program and completion of the summer or fall teacher preparation session. The practitioner teacher is restricted to the specific level and area as designated on the practitioner license. He/she will be issued a Level 1 professional license upon successful completion of all program requirements.

L. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1790 (October 2006), amended LR 34:1387 (July 2008), LR 35:1477 (August 2009), LR 37:

Chapter 3. Teaching Authorizations and Certifications

Subchapter A. Standard Teaching Authorizations

§303. Introduction

A. - A.6. ...
B. A Level 1 certificate is the entry-level professional certificate typically held during the first three years of the teaching career.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 37:

§305. Professional Level Certificates

A. Level 1 is the entry-level professional certificate, valid for three years. The Level 2 and Level 3 certificates are valid for five years, with renewal involving completion of a specified number of continuing learning units (CLUs) of professional development.

1. - 1.d.i.(c). ...
2. Renewal Guidelines. A Level 1 certificate is valid for three years and may be renewed upon the request of a Louisiana employing authority.

B. Level 2 Professional Certificate—valid for five years and renewable with continuing learning units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:
a. ...
b. successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session; and

B.1.c. - E.3. ...
AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 33: 433 (March 2007), LR 34:233 (February 2008), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 37:

§307. Type C, B, and A Certificates

A. Effective July 1, 2002, these certificates are no longer issued for initial certification. The Type C certificate is valid for three years and may be renewed upon the request of the Louisiana employing authority. Teachers who hold Type B and Type A lifetime certificates will continue to hold these certificates.

B. - B.2. ...
C. Type B Certificate—a lifetime certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or the certificate is not revoked by the State Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:
a. hold or meet eligibility requirements for a Type C certificate;

b. successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session; and

1.c. - 2. ...
D. Type A Certificate—a lifetime certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he/she is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or the certificate is not revoked by the state Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:
a. ...

b. successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session;

D.1.c. - E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1798 (October 2006), amended LR 37:

§309. Out-of-State (OS) Certificate

A. - B.5. ...

C. Advancing from OS to Professional Level 1, 2, or 3 Certificate

1. - 1.c.iv.(b). ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1799 (October 2006), amended LR 33:433 (March 2007), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 35:894 (May 2009), LR 37:

§315. Standard Certificates for Teachers in Nonpublic Schools

A. A standard certificate with an asterisk (*) following the certificate type is issued to a teacher in a non-public school. The asterisk (*) refers to a statement printed at the bottom of the certificate: "If this teacher enters a public/charter school system in Louisiana, he/she will be required to successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session".

B. Level 2* (2-asterisk) Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

a. - b. ...

c. completed a teacher evaluation program for three years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. ...

3. The Level 2* certificate is valid in a nonpublic school setting. If the teacher enters a Louisiana public/charter school he/she will be required to successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session.

C. Level 3* (3-asterisk) Certificate—valid for five years and renewable with Continuing Learning Units (CLUs) of approved professional development during the five year period immediately preceding request for renewal.

1. Eligibility requirements:

a. - c. ...

d. completed a teacher evaluation program for three consecutive years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. ...

3. The Level 3* certificate is valid in a nonpublic school setting. If the teacher enters a Louisiana

public/charter school he/she will be required to successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session.

4. Renewal Guidelines for Level 2* and Level 3* Certificates

a. A teacher must complete 150 continuing learning units (CLUs) of district-approved and verified professional development over the five year time period during which he/she holds the certificate, or during the five year time period immediately preceding the request for renewal. The Louisiana employing authority must request renewal of a Level 2* or Level 3* certificate.

b. A teacher with an existing Level 2* or Level 3* teaching certificate may renew that certificate based upon completion of NBC during the period of certificate validity, as satisfaction in full of the 150 CLUs required for renewal.

c. If the holder of an expired Level 2* or Level 3* certificate has not earned the required 150 CLUs of professional development, the expired certificate may be reactivated upon request of the employing authority (at the level that was attained prior to expiration) for a period of one year, during which time the certificate holder must present evidence of successful completion of the required 150 CLUs to the Division of Teacher Certification and Higher Education. Failure to complete necessary CLUs during the one year reactivation period will result in an expired certificate that cannot be reinstated until evidence is provided of completed professional development requirements.

d. A continuing learning unit (CLU) is a professional development activity that builds capacity for effective, research-based, content-focused teaching and learning that positively impacts student achievement. As a unit of measure, the CLU is used to quantify an educator's participation in a district- or system-approved, content-focused professional development activity aligned with the educator's individual professional growth plan.

D. Type B* (B-asterisk) Certificate—a lifetime nonpublic school certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a regularly employed teacher for at least one semester, or 90 consecutive days, and/or certificate is not revoked by the Louisiana Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:

a. - b. ...

c. completed a teacher evaluation program for three consecutive years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. ...

3. The Type B* certificate is valid for life of continuous service in a nonpublic school setting. If the teacher enters a Louisiana public/charter school he/she will be required to complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session.

E. Type A* (A-asterisk) Certificate—a lifetime nonpublic school certificate for continuous service, provided the holder does not allow any period of five or more consecutive years of disuse to accrue in which he is not a

regularly employed teacher for at least one semester, or 90 consecutive days, and/or certificate is not revoked by the State Board of Elementary and Secondary Education (BESE).

1. Eligibility requirements:

a. - c. ...

d. completed a teacher evaluation program for three consecutive years at the same nonpublic school, with the principal as evaluator and the teacher performance rated as satisfactory in the areas of planning, management, instruction, and professional development.

2. ...

3. The Type A* certificate is valid for life of continuous service in a nonpublic school setting. If this teacher enters a Louisiana public school he/she will be required to successfully complete the local evaluation plan mandated by Act 54 of the Louisiana 2010 Legislative Session.

F. - G.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1801 (October 2006), amended LR 36:752 (April 2010), LR 37:

Chapter 10. Definitions

§1003. Acronyms

* * *

LaTAAP—Repealed.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 32:1833 (October 2006), amended LR 37:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education,

P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 746—Louisiana Standards for
State Certification of School Personnel—Louisiana
Teacher Assistance and Assessment Program (LaTAAP)**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)

This revision in policy of Bulletin 746 will align the states new evaluation program with standards contained in Act 54 of the 2010 Louisiana Legislative Session which repeals the Louisiana Teacher Assistance and Assessment Program (LaTAAP). The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)

This policy will have no effect on revenue collections.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Secretary
1010#069

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 996—Standards for Approval of Teacher and/or
Educational Leader Preparation Programs
(LAC 28:XLV.Chapters 3-13)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 996—Standards for Approval of Teacher and or Educational Leader Preparation Programs*: Chapters 3-13. This policy outlines requirements for submission, review, and board approval of proposals for alternate teacher preparation programs and educational leader programs from non-university private providers. There was a need for policy to be developed that would provide for a fair and timely review and approval process for non-university private provider teacher and educational leader preparation programs.

**Title 28
EDUCATION**

**Part XLV. Bulletin 996—Standards for Approval of
Teacher and/or Educational Leader Preparation
Programs**

**Chapter 3. State Approval for Public and Private
University Teacher and/or Educational
Leader Preparation Units**

§301. Process/Procedures

A. The Louisiana Department of Education (LDOE) and Board of Regents (BOR) staff reviews proposals from public and private, new or reinstated teacher and/or educational leader preparation units/programs for entry into Level I and Level II. When an application is judged satisfactory, a recommendation is made to BESE and BOR for approval to enter the appropriate level. Upon approval by BESE and BOR, the teacher and/or educational leader preparation program will move to the appropriate level.

B. The state may conduct scheduled and/or unscheduled reviews of the teacher and/or educational leader preparation unit/program, including on-site visits, at any time during the process.

C. Public and out-of-state private institutions must submit duplicate documents to the Board of Regents for program approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 30:2452 (November 2004), amended LR 35:2327 (November 2009), LR 37:

§303. Level I Approval

A. Level I is entered upon approval by BESE and BOR of a proposal submitted to the Department of Education's division of teacher certification and preparation.

B. For public and private institutions of higher education, the proposal will include the following items:

1. official declaration of intent in the form of a letter from the head of the institution;

2. evidence of regional accreditation status (e.g., Southern Association of Colleges and Schools);

3. a narrative that follows state-approved guidelines, which are available from the Louisiana Department of Education or the Board of Regents. These guidelines include:

a. documentation describing general education classes (e.g., number of general education course hours by discipline and catalog course descriptions) according to Bulletin 746 and R.S. 17:7.1 and 7.2;

b. documentation describing certification areas to be offered, with required courses to meet state certification requirements, according to Bulletin 746 and R.S. 17:7.1 and 7.2;

c. evidence of collaboration with school districts, including a plan for development of an advisory board of community, district and university representatives. The written plan should describe how the council would be used and should name members and/or potential members;

d. evidence to show that the institution's governing structure will endorse and financially support a teacher and/or educational leader preparation unit and programs (e.g., budget detail showing funding sources);

e. documentation showing expertise of individuals directed to guide the unit and its programs (e.g., vitae of the

dean or chair, department heads, director of field experiences, faculty, etc.);

f. an articulation agreement to transfer credit hours with another Louisiana-approved teacher and/or educational leader preparation institution that agrees to recommend the institution's candidates for certification, as needed, for continuous progress and program completion.

C. Upon BESE and BOR approval of the proposal, the institution is authorized, for a period of up to one year, to proceed with developing the teacher and/or educational leader preparation unit and programs identified in the proposal, and to admit candidates to programs. This does not authorize the recommendation of graduates for certification.

D. External reviews of education programs by a team comprised of national consultants and Board of Regents and LDOE staff will be conducted to ensure adherence to guidelines developed and approved by LDOE and the Board of Regents.

E. The institution must apply for Level II approval within one year, or receive a one-year extension of Level I from BESE to address unforeseen circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§305. Level II Approval

A. Level II authorizes the institution to recommend candidates for certification, and begins with the joint review by the Louisiana Department of Education and Board of Regents and approval by BESE of the following items submitted to the LDOE's Division of Teacher Certification and Preparation:

1. a narrative describing the missions of the institution and the teacher and/or educational leader preparation program, reflecting that the program is an integrated and integral part of the university. The narrative should specify beliefs that drive the institution and unit and may include the knowledge bases from which these beliefs developed;

2. a written description of the professional education unit or education program that is primarily responsible for the preparation of teachers and other professional education personnel. This may be a chart or a narrative that specifies all professional education programs offered by the institution and degrees awarded for each program, and an organizational chart showing the professional education unit's or education program's relationship to other administrative units within the institution;

3. evidence that a dean, director, or chair is officially designated to represent the education unit or education program and has been assigned authority and responsibility for its overall administration and operation (e.g., a job description for the head of the professional education unit or education program);

4. evidence of written policies and procedures that guide education unit or education program operation, including policies or procedures pertaining to candidates. This may be submitted as hard copy (e.g., catalogs, handbooks) or as instructions for accessing a website;

5. a description of the education unit's or education program's system of monitoring and evaluating its candidates, programs, operations, and the performance of its graduates. This will reflect how the education unit or education program will assess programs, unit effectiveness,

and candidates as well as how the education unit or education program will provide follow-up data on its graduates;

6. instrument(s) for assessing candidates for admission to and exit from the teacher and/or educational leader preparation program. This would include requirements for entrance to teacher and/or educational leader preparation programs, through transition points, and for successful program completion as well as procedures for remediation, if necessary;

7. full budget report for the implementation of programs, including internal and external sources of funding, and including both hard and soft monies.

B. Level II must be completed within a period of one to three years. The BESE may grant only one extension, for a period of one year, when problems are identified that require solution prior to notification of intent to seek full state approval and national accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§307. Level III Approval

A. Level III begins when the teacher and/or educational leader preparation program is notified by the accrediting agency that it is eligible for candidacy for national accreditation.

B. A copy of the verification from the national accrediting agency must be submitted to the Louisiana Department of Education's Division of Teacher Certification and Preparation.

C. Within three years or less from the time at which an institution is notified of eligibility for candidacy, the unit must host a joint visit with a national accreditation agency and state representatives (see guidelines provided by state-approved national accrediting agencies, identified in §107 of this document).

D. The institution remains in Level III until the accreditation process is complete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§309. Level IV Approval

A. Level IV begins with notification of final accreditation by the national accrediting agency.

B. The LDOE's division of teacher certification and preparation receives notification of accreditation of the teacher and/or educational leader preparation program by the national accrediting agency. The LDOE will verify that the teacher and/or educational leader preparation program meets state standards and will forward this information to BESE for final state approval.

C. The BESE will notify the institution of final state approval.

D. The national accrediting agency defines the cycle for continued accreditation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Chapter 5. State Approval for Non-University Private Provider Teacher and/or Educational Leader Preparation Programs

§501. Process/Procedures

A. In-state and out-of-state non-university private providers seeking state approval may submit proposals to the Louisiana Department of Education for a Practitioner Teacher Program, Certification-Only Alternate Teacher Program and Educational Leader Practitioner Program that leads to Louisiana licensure as a teacher or educational leader.

B. Proposals must be submitted using the private provider application packet available at www.teachlouisiana.net and must include the following:

1. cover page signed by the program director;
2. program overview briefly describing the program, including goals of the program and the design to accomplish the goals;
3. documentation of collaborative agreements with school districts/charter schools to develop and implement the program, provide mentoring for candidates and improve the program once implemented;
4. a description of the process used to recruit, screen and select outstanding candidates and support program completers;
5. evidence that the curriculum is aligned to the requirements set forth in *Bulletin 746—Louisiana Standards for State Certification of School Personnel*;
6. measurable objectives that clearly identify the most critical competencies candidates will demonstrate and a description of instruments and processes used to assess performance;
7. a list of proposed resources and materials;
8. names and credentials of staff, including curriculum vitae of key personnel;
9. an audited financial statement. If one is not currently available, then the applicant must submit a written assurance that one will be provided within the first year of the program. Additionally, the proposal should delineate any costs to individual program participants and procedures for handling of all fees.

C. Private providers are limited to the submission of one proposal every 12 months. The 12 month cycle begins on the date that the proposal is received by the Louisiana Department of Education.

D. Private providers with programs established in other states must provide verification that their teacher preparation or educational leader programs are approved in the states in which they operate. In addition, the following data must be provided:

1. number of program completers;
2. certification areas approved and offered in other states;
3. letters of references from employing school districts; and
4. teacher effectiveness data, if available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§503. Preliminary Review

A. Upon receipt, program proposals will undergo a preliminary review by the LDOE for completeness. Programs that meet all initial submission requirements will undergo the evaluation process by an external and internal team. Programs that don't meet all initial submission requirements will receive a notice of pending denial. Applicants will have seven days to provide the required material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§505. Evaluation Process

A. A panel of internal and external reviewers will evaluate written proposals to ensure they meet professional, state and national standards for quality and state certification policy.

B. An interview with the program provider and collaborators involved in the development and design of the program will be conducted within 30 days of the receipt of the proposal.

C. Recommendations relative to approval of the proposal will be sent by the LDOE to the provider. Program proposal recommendations will be categorized as follows: recommended for approval, recommended for approval with stipulations, or not recommended for approval.

1. Recommended for Approval

a. A proposal that is recommended for approval meets all structural and policy requirements according to the program proposal guidelines and does not require any revisions or additional clarification.

b. Programs categorized as recommended for approval are recommended for provisional two-year approval at the next available BESE meeting.

2. Recommended for Approval with Stipulations

a. A proposal that is recommended for approval with stipulations is one that generally meets all structural and policy requirements according to the program proposal guidelines but does require additional clarification and adjustments.

b. Proposal will only be recommended for provisional two-year approval at the next available BESE meeting when the LDOE has determined that all stipulations identified by the review team have been addressed.

c. A listing of the stipulations identified by the review team and evidence that each one has been addressed will be provided to the board and included with the recommendation for approval.

3. Not Recommended for Approval

a. A proposal that is not recommended for approval is one that does not meet the policy or structural requirements according to the program proposal guidelines in significant ways and is in need of major program redesign.

b. Providers that are not recommended for approval may resubmit redesigned proposals to the department for reconsideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§507. Board Approval

A. Programs recommended for approval by the review team or programs that have successfully addressed all stipulations identified by the review team are recommended for provisional two-year approval at the next available BESE meeting.

B. Once BESE has granted provisional two-year approval of the program, the provider is authorized, for a period of up to two years to proceed with developing the teacher and/or educational leader preparation programs identified in the proposal, admit candidates to the program and recommend completers for certification.

C. After one year of implementation of the program, an on-site monitoring visit will be conducted by the LDOE to ensure compliance with policy and quality of delivery. A report of the monitoring visit will be presented to BESE.

D. For state approval beyond the provisional two years, private providers must maintain value added assessment results at Level 3 or higher as described in Chapter 11.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§509. Board Denial

A. If a program recommended by the department is not approved by BESE, the provider will be notified of the denial in a formal letter. The provider will be allowed one additional opportunity to resubmit a redesigned proposal to the LDOE according to the 12 month submission cycle.

B. Redesigned programs that are denied by BESE for a second time, may not re-apply until two years after the date of the program's original application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Chapter 7. Louisiana State Standards for Teacher Preparation Programs

§701. Introduction

A. Each teacher preparation program seeking approval from the Board of Elementary and Secondary Education (BESE) is required to incorporate and adhere to the NCATE standards or TEAC's principles and standards and to track closely the NCATE or TEAC accreditation process. It is the responsibility of the teacher preparation program to prepare and present a clear description of how it is responding to each of the Louisiana standards within the accreditation process.

B. The rubrics, as listed, develop a continuum of quality regarding a beginning teacher's ability to meet effectively the requirements of the five domains in *The Louisiana Components of Effective Teaching*. The integration of the Louisiana Content Standards is to be evidenced in the teacher education curricula of each teacher education unit. Each teacher education program must show evidence of integration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Chapter 9. The Components of Effective Teacher Preparation

Subchapter A. Standard A: Candidates Provide Effective Teaching for All Students

§901. Planning

A. Candidates at both the initial and advanced levels of the teacher education program provide effective instruction and assessment for all students.

1. The teacher education program provides candidates¹ at both the initial and advanced levels with knowledge and skills in the following planning processes:

- a. specifying learner outcomes;
- b. developing appropriate activities which lead to the outcomes;
- c. planning for individual differences;
- d. identifying materials and media for instruction;
- e. specifying evaluation strategies for student achievement; and
- f. developing Individualized Education Plans (IEPs) as needed.

Unacceptable	Acceptable	Target
Candidates recognize the components of planning and know that they are expected to meet the learning needs of each student.	Candidates demonstrate knowledge of the steps in developing plans to meet the learning needs of each student.	Candidates develop and implement plans as needed to meet the learning needs of each student.

¹Candidates. Individuals admitted to or enrolled in programs for the First preparation of teachers. Candidates are distinguished from students in P-12 school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§903. Management

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the management component, which includes maintaining an environment conducive to learning, maximizing instructional time, and managing learner behavior.

Unacceptable	Acceptable	Target
Candidates understand various approaches to classroom/behavior or management.	Candidates create a positive learning environment, maximize instructional time, and manage learner behavior.	Candidates create a positive learning environment, maximize instructional time, and manage learner behavior, making adjustments as necessary to meet the learning needs of each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§905. Instruction

A. The teacher education program provides candidates at both the initial and advanced levels with skills for delivering

effective instruction, presenting appropriate content, providing for student involvement, and assessing and facilitating student growth.

Unacceptable	Acceptable	Target
Candidates recognize the components of instruction that meet the learning needs of each student.	Candidates demonstrate use of instructional components that meet the learning needs of each student.	Candidates demonstrate effective instruction that results in positive learning outcomes for each student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§907. Curriculum

A. The teacher education curricula provide candidates at both the initial and advanced levels with knowledge and skills to effectively incorporate the Louisiana content standards and grade level expectations in instructional delivery.

Unacceptable	Acceptable	Target
Candidates understand the basic components of the Louisiana Content Standards and Grade Level Expectations.	Candidates demonstrate knowledge of the Louisiana Content Standards and Grade Level Expectations in lessons for each content area they are preparing to teach.	Candidates implement instruction and assessment reflective of content standards, grade level expectations, local curricula, and each student's needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§909. Curriculum—Reading (Specifically but not Exclusively for K-3 Teachers)

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the Louisiana reading competencies and the curriculum process.

Unacceptable	Acceptable	Target
Candidates understand the components of the Louisiana Reading Competencies.	Candidates utilize the Louisiana Reading Competencies in K-12 classrooms.	Candidates effectively utilize the Louisiana Reading Competencies in K-12 classrooms to impact learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§911. Curriculum—Mathematics (Specifically but not exclusively for K-3 teachers)

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills in the curriculum process.

Unacceptable	Acceptable	Target
Candidates understand the elements of reform mathematics.	Candidates use reform mathematics content and pedagogy in providing instruction.	Candidates effectively use reform mathematics content and pedagogy in instruction and assessment, including the use of manipulatives and/or the application of content to real life situations, resulting in improved student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§913. Technology

A. The teacher education program provides candidates at both initial and advanced levels with skills to plan and deliver instruction that integrates a variety of software, applications, and related technologies appropriate to the learning needs of each student.

Unacceptable	Acceptable	Target
Candidates understand how to use technology.	Candidates create and use instruction and assessment that integrate technology into the curriculum.	Candidates effectively integrate technology into the curriculum with instruction and assessment that result in improved student learning.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§915. Professional Development

A. The teacher education program provides candidates at both the initial and advanced levels with information and skills for planning professional self-development.

Unacceptable	Acceptable	Target
No evidence exists that candidates were exposed to the need for ongoing professional development.	Candidates plan and pursue professional development activities required by the university and/or first employing school system.	Candidates develop an individualized professional development plan based upon their self-assessment, reflection, and long term professional goals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§917. School Improvement

A. The teacher education program provides candidates at both the initial and advanced levels with preparatory experiences in school improvement that includes taking an active role in school decision-making and creating relevant partnerships.

Unacceptable	Acceptable	Target
Candidates understand the processes of school improvement.	Candidates review and are familiar with school improvement efforts at the school and district levels.	Candidates participate in school improvement efforts by serving on committees and forming partnerships with community groups.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Subchapter B. Standard B: Candidates and/or Graduates of Teacher Education Programs Participate in the Accountability and Testing Process

§919. School and District Accountability System

A. The teacher education program provides candidates at both the initial and advanced levels with knowledge and skills regarding the utilization of the Louisiana School and District Accountability System (LSDAS).

Unacceptable	Acceptable	Target
Candidates understand the basic components of the LSDAS.	Candidates investigate documents, data, and procedures used in LSDAS.	Candidates take an active role in the school growth process as related to the LSDAS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

§921. Testing

A. The teacher education program provides candidates at both the initial and advanced levels with information on the Louisiana Educational Assessment Program (LEAP 21) to enhance their testing and measurement practices related to learning and instruction.

Unacceptable	Acceptable	Target
Candidates understand the basic components of the Louisiana Educational Assessment Program (LEAP 21).	Candidates plan and implement instruction that correlates with LEAP 21.	Candidates interpret LEAP 21 test data and apply results to impact student achievement positively.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), and R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Chapter 11. Teacher Preparation Program Accountability

§1101. Programmatic Intervention

A. In order to offer a state-approved teacher preparation program that allows teachers to become certified by the LDOE, public and private higher education institutions must follow the process/procedures detailed in Chapter 3 of this document. Private providers wishing to offer a state-approved teacher preparation program must meet all requirements contained in the Program Standards and

Approval Process for Private Providers document available from <http://www.teachlouisiana.net>. For continued state approval, public and private higher education institutions and private providers must maintain value added assessment results at Level 3 or higher.

B. The Louisiana Value Added Assessment of Teacher Preparation Programs (VAA-TPP) assesses the impact of new teachers from specific teacher preparation programs on student achievement. Based on this assessment, teacher preparation programs are identified as Level 1 (program completers performing above experienced teachers), Level 2 (program completers performing similarly to experienced teachers), Level 3 (program completers performing similarly to new average teachers), Level 4 (program completers performing more poorly than average new teachers) or Level 5 (program completers performing significantly more poorly than average new teachers). The VAA-TPP has been developed and is supported by the BOR and BESE.

C.1. Any teacher preparation program that receives a Level 4 or 5 result in any content area shall immediately be assigned a designation of programmatic intervention. Programmatic intervention will include a review of the existing program in that content area by a team composed of key personnel within the program, a nationally recognized expert from within or outside the state identified by the program provider and a content area specialist designated by the State Superintendent of Education. The review must be completed within one year of the Programmatic Intervention designation and be used to create a corrective action plan to address the needs. Subsequent to the review, the public or private higher education institution or private provider will make a brief report to BESE that will specify:

- a. the findings of the review;
- b. the corrective action plan;
- c. the time frame for implementation of the corrective action plan and when changes in their value added assessment results would be anticipated to occur based on these actions; time frames may vary depending on the program type;
- d. the institution's plan to assess implementation of the corrective action plan and what evidence will be collected demonstrating impact on current teacher candidates.

2. Upon BESE approval of Subparagraphs a-d listed above, the program will be allowed to continue to certify teachers under the designation of programmatic intervention until value added assessment results improve to a Level 3 or higher.

D. BESE will conduct a progress review of any state approved teacher preparation program that fails to improve its value added assessment results to a Level 3 or higher within the BESE approved time frame identified in the corrective action plan. This progress review may result in an extended deadline for the teacher preparation program to improve its value added assessment results or loss of state approval. Any state-approved teacher preparation program that loses state-approval will not be allowed to offer teacher preparation programs that result in certification in the content area(s) that received the Level 4 or 5. A value added assessment Level 4 or 5 in reading could impact state approval in multiple content areas. In order to re-establish state approval to certify teachers in the content area(s),

public and private universities must follow the process/procedures developed by the BOR. Private providers wishing to re-establish state approval in content areas must follow guidelines developed by the DOE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Chapter 13. Identifications of Acronyms §1301. Acronyms

A. Listed below are the full identifications of acronyms used in this publication.

BESE—Board of Elementary and Secondary Education.

BOR—Board of Regents.

CHEA—Council for Higher Education.

IEP—Individualized Education Plan.

K-3—Kindergarten through 3rd grade.

K-12—Kindergarten through 12th grade.

LDOE—Louisiana Department of Education.

LEAP 21—Louisiana Educational Assessment Program for the 21st century.

LSDAS—Louisiana School and District Accountability System.

NCATE—National Council for the Accreditation of Teacher Education.

P-12—Pre-kindergarten through 12th grade.

TEAC—Teacher Education Accreditation Council.

USDOE—U.S. Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10); R.S. 17:7(6), R.S. 17:7.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the state board office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights or parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? No.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 996—Standards for
Approval of Teacher and/or Educational
Leader Preparation Programs**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

This policy outlines requirements for submission, review and Board approval of proposals for alternate teacher preparation programs and educational leader programs from non-university private providers. The adoption of this policy will cost the Department of Education approximately \$700 (printing and postage) to disseminate the policy.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

This policy will have no effect on revenue collections.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1010#070

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1196—Louisiana Food and Nutrition Programs,
Policies of Operation
(LAC 28:XLIX.Chapters 3, 5, 7, 25, 29, 33, 34, and 35)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement revisions to *Bulletin 1196—Louisiana Food and Nutrition programs, Policies of Operation*: Chapters 3, 5, 7, 25, 29, 33, 34, and 35. Bulletin 1196 is the policy manual designed to provide useful guidance and information for the purpose of improving regulatory compliance and to enhance the understanding and operation of the Child Nutrition Programs in Louisiana. Due to policy changes from USDA, as well as the state agency, it was imperative to revise chapters. The revisions will consolidate necessary changes to Child Nutrition Programs and, therefore, make it more useful to the local systems throughout the state. The changes are mostly technical in nature and address areas such as: appeals procedure, free and reduced eligibility, a La Carte sales available for teachers, and audit threshold.

Title 28

EDUCATION

**Part XLIX. Bulletin 1196—Louisiana Food and
Nutrition Programs, Policies of Operation**

Chapter 3. Financial Management and Accounting

**§351. Resolution of Financial Obligations Established
by Program Reviews, Audits, or Other
Compliance Reviews**

A. - A.2.c. ...

d. the appeal procedures. (Refer to the LAC 28:I.Chapter 34, National School Lunch Program and Child and Adult Care Food Program Appeals Procedures.

A.3 - C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2120 (December 2001), amended LR 32:1421 (August 2006), LR 37:

Chapter 5. Free and Reduced Price Meals

§503. Policy Statements

A. - A.2.f. ...

g. the notice of selection for verification and other forms of supporting documentation to assist in verification which include the following:

i. the SFA guidance/acceptable income documentation to assist household selected for verification in gathering income information;

ii. Social Security numbers;

iii. the verification letter for SNAP (supplemental nutrition assistance program, formerly the food stamp program)/family independent temporary assistance program (FITAP) to complete;

iv. the verification letter for Social Security office to complete;

v. the verification letter for employer to complete;

h. the benefit change/termination notice;

i. SFA letter to the FITAP office;

j. documentation results (the verification tracker form);

3. - 3.c. ...

d. agrees to set reduced price charges for lunch and breakfast at or below the maximum reduced price allowed by federal regulations and below the full price of the lunch or breakfast;

e. ...

f. agrees that in the operation of child nutrition programs, no child shall be discriminated against because of race, sex, color, national origin, age, or disability and agrees to have on file procedures for handling discrimination complaints;

g. agrees to designate a school official to review applications and make determinations of eligibility. Such official will use the criteria outlined in the eligibility guidelines;

h. agrees to establish and use a fair hearing procedure under which a family can appeal a decision made by the SFA with respect to the child's free and reduced price meal application; the SFA can challenge the continued eligibility of any child for free or reduced price meals. During the appeal and hearing, the child, who was determined to be eligible based on the face value of the application submitted, will continue to receive free or reduced price meals; prior to initiating the hearing procedure, the school official(s), the parent(s), or guardian(s), may request a conference to discuss the situation, present information, and obtain an explanation of data submitted on the application and the decisions rendered; such a conference shall not in any way prejudice or diminish the right to a fair hearing; the designated hearing official must be someone who is not involved in the original eligibility determination in any way, such as advising or answering questions for the approving official. It is

suggested that this person hold a higher position than the determining official; the hearing official for the free and reduced application procedure and the hearing official for verification must be the same person; the hearing procedure shall provide the following for both the family and the SFA:

h.i. - j.i. ...

ii. an application that lists a valid SNAP/FITAP case number should be approved free for all students listed on the application. Parent(s) or guardian(s) will be promptly notified of the acceptance or denial of their application(s);

iii. - vi. ...

k. agrees to submit a public release containing both the free and reduced price income eligibility guidelines and all other information outlined in the letter to households to the local news media, local unemployment offices and major employers contemplating or experiencing large layoffs;

l. agrees to establish a procedure to collect money from children who pay for their meals and to count by category at the point of service, the number of free, reduced price and full price meals. The procedure used must avoid overt identification; overt identification means any act that openly identifies children as eligible for free or reduced price benefits in child nutrition programs;

m. agrees to use state agency prototype documents or accept responsibility for variations;

n. agrees to:

i. verify eligibility for free and reduced price meals regulations;

ii. complete the verification process by November 15 of each year;

iii. maintain a summary of the verification efforts that indicates the total number of applications on file October 1, the number of free and reduced-price eligibles as of the last day of October, the percentage or number of applications verified, techniques used, documentation submitted by households, documentation of any changes in eligibility and reasons for changes, and all relevant correspondence with households.

B. - B.1.b.i. ...

ii. Income Eligibility Guidelines for Free and Reduced Price meals;

2. - 2.f. ...

g. agree to keep on file, where a child nutrition program is in operation, a master list indicating the name, date of birth, income, and eligibility category of all children; the date the child entered the school or institution and the date the child withdrew from enrollment must be included.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2121 (December 2001), amended LR 29:2025 (October 2003), LR 32:1421 (August 2006), LR 37:

§505. Application Materials and Process

A. Application Design

1. The application and all supporting materials must be clear and simple in design and in an understandable and uniform format. The application materials must also conform to the requirements described in this Section.

B. Foreign Language Translations

1. The application materials and other communications with households concerning eligibility determinations must be, to the maximum extent practicable,

in a language that parents and guardians can understand. Where households need information in a language other than English, SFAs must make reasonable efforts, considering the number of such households, to provide household letters and application forms to them in languages other than English.

2. The FNS web site (www.fns.usda.gov/cnd) has the prototype application and materials translated in several languages. SFAs are encouraged to provide households with assistance in completing applications through the use of personnel proficient in foreign languages.

C. Informing Households/ Letter to the Household

1. Each year at the beginning of school, letters must be distributed to the households of children attending the school. This letter tells families which school nutrition programs are available and that meals may be available free or at a reduced price. All SFAs must be able to provide households with paper applications and materials.

2. The letter should be sent to households of all school children before the beginning of the school year or as early as possible in the school year so that eligibility determinations may be made, and free and reduced price benefits provided as soon as possible. SFAs should send out the letter no earlier than four calendar weeks prior to the time students start school. Letters cannot be sent home at the end of the school year for the next year, nor can the SFA begin accepting and processing applications before the beginning of the federally defined school year which is July 1 through June 30. Year-around schools that follow the July 1 - June 30 school year would distribute letters in June.

3. Households enrolling new students in an SFA after the start of the school year must be provided a letter and an application form and materials when they enroll.

4. If the SFA uses paper applications, an application form and instructions must be included with the letter to households.

5. If the SFA uses a computer or web-based system to process applications, the letter must inform the household how to access the system in order to apply for benefits. In addition, the letter must explain to the household how to obtain and submit a paper application. This may be done by including a telephone number or a form to return requesting that an application be sent.

6. The letter must contain the following information:

a. income eligibility guidelines:

i. for schools participating in the NSLP or SBP only, the reduced price guidelines may be included, with an explanation that households with incomes at or below the reduced price limits are eligible for either free or reduced price meals;

ii. for schools participating in the NSLP or SBP and also participating in the SMP with the free milk option for their split-session kindergarten students, both the free and the reduced price guidelines must be included;

b. instructions on how to apply for free or reduced price meals, including that only one application is required for all children in the household;

c. an explanation that an application for free or reduced price benefits cannot be approved unless it contains complete eligibility information as indicated on the application and instructions;

d. a statement that foster children may be eligible for free or reduced price meals regardless of the income of

the households with whom they reside and an explanation about how to contact the SFA for assistance or how to complete the application for a foster child;

e. an explanation that households with children who are members of currently certified SNAP, FDPIR or FITAP households may submit applications for these children with the abbreviated information as indicated on the applications and instructions;

f. an explanation that households with children who are enrolled in the Head Start/Even Start Program or the Migrant Education Program or who are considered homeless or runaway by the school district's homeless liaison should contact the school for assistance in receiving benefits;

g. an explanation that the information submitted on the application may be subject to verification;

h. a statement that a household may apply for benefits at any time during the school year;

i. a statement that children of parents or guardians who become unemployed may be eligible for free or reduced price meals during the period of unemployment;

j. a statement to the effect that the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) participants may be eligible for free or reduced price meals;

k. an explanation that a household may appeal the decision of the SFA with respect to the application using the hearing procedure described in the SFA's free and reduced price policy statement;

l. the following two statements must be included as written:

i. in accordance with federal law and U.S. Department of Agriculture policy, this institution is prohibited from discrimination on the basis of race, color, national origin, sex, age or disability;

ii. to file a complaint of discrimination write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (800) 795-3272 or (202) 720-6382 (TTY). USDA is an equal opportunity provider and employer;

m. the SFA should also include local contact information if the household has questions about the application process.

D. Household Applications

1. SFAs must provide household applications to families applying for free or reduced price meal benefits. The federal or state prototype household application may be used by all SFAs. SFAs that choose to create a household application (such as a scannable application) must ensure that all information from the prototype application is present on the SFA application. A household application is submitted by a household for all children in that household that attend schools in the same SFA. Unless a child/family meets criteria to be exempt from household applications, SFAs cannot require one application for each child in a household. Further, SFAs cannot require separate applications for households with some children who are eligible based on categorical eligibility and some who are applying based on household income.

2. The following are exemptions to household applications.

a. Foster Children

i. Each foster child is considered a household of one and an application must be completed for each foster child in the household.

ii. In lieu of individual applications, the SFA may accept a list from the court or the agency responsible for the placement of foster children. The list must provide information indicating the child's name, any personal income received by the child, the child's current address, and, if known, the school that child is currently attending. The list must be signed by an appropriate official and provide the official's title and contact information.

b. Residents of RCCIs

i. Each child residing in an RCCI is considered a household of one. An application must be completed for each child or the RCCI may use an eligibility documentation sheet for all children residing in the RCCI. The documentation sheet must provide information indicating the child's name and personal income received by the child. The documentation sheet must be signed by an appropriate official and provide the official's title and contact information.

ii. Children attending but not residing in an RCCI are considered members of their household and their eligibility is determined using a household application or through direct certification.

E. Electronic Applications/Scanning Paper Applications

1. The SFA may make the application and supporting materials available electronically via the Internet. In addition, the SFA may accept applications electronically and may provide for electronic signatures for such submissions. All disclosure restrictions must be met and acceptance of the application and electronic signatures must be in accordance with federal guidance.

2. The SFA may also scan paper applications submitted. The scanning process must meet all regulatory requirements as well as perform functions as outlined in this guidance. The software/scanner system must be able to recognize and accept less than whole dollar amounts.

3. Neither the federal or state agencies evaluate, recommend, approve, or endorse any software used for certification or verification purposes. There are no federal specifications for software vendors. SFAs are responsible for assuring that the certification and verification processes meet all regulatory requirements and policies. If software is used to perform all or part of the certification or verification process, the SFA must assure the software used is performing correctly and meets all requirements.

F. Contents of the Application

1. Except for the information in the attesting statement, the required information on the application form may be separate from the signature block. The application form must contain:

a. privacy act statement:

i. a statement explaining the protections of the Privacy Act which addresses the following:

(a) the disclosure of a social security number is voluntary; however, a social security number, or an indication of "none", is required for approval of the application;

(b) the social security number is required under provisions of the National School Lunch Act (NSLA); and

(c). all potential uses that may be made of the social security number;

b. foster child statement:

i. a statement explaining how a foster child applies which says:

(a). "In certain cases, foster children are eligible for free or reduced price meals regardless of the household's income. If you have foster children living with you and wish to apply for such meals for them, please contact us";

(b). in lieu of this statement, the SFA may include instructions on how to apply for a foster child;

c. attesting statement:

i. a statement directly above the signature block for the signing adult to certify that:

(a). the person signing is furnishing true information and to advise that person that the application is being made in connection with the receipt of federal funds;

(b). school officials may verify the information on the application;

(c). deliberate misrepresentation of the information may subject the applicant to prosecution under state and federal statutes; and

(d). the Privacy Act statement or a reference to the Privacy Act statement and where the complete statement can be found in the application materials.

2. The application must provide space for identifying each child separately.

3. A school or SFA wishing to require income information from all households with enrolled children must secure that income information through means other than the household's application for free or reduced price school meal benefits. If schools or SFAs collect such information for non-NSLP or SBP purposes, the applications may not be labeled as applications for benefits under the school meals program or give any indication that such benefits are contingent upon a household returning the application. If SFAs provide households with multi-use applications, which include both meal program benefits as well as non-food benefits, they must ensure that the process does not require submission of an application for free or reduced price meal benefits. Distribution and processing applications solely for information about household income to determine the school district's funding for programs other than the schools meals programs or to determine eligibility for other assistance programs is not a requirement for NSLP or SBP purposes. Therefore, funds in the nonprofit school food service account cannot be used to pay the costs associated with collecting and processing such information.

G. Submitting an Application

1. Unless the children in a household are determined eligible through direct certification with SNAP or directly certified as categorically eligible through the SFA's homeless or Migrant Education Program (MEP) liaison or other official sources, the family must submit an application to receive free or reduced price meals. The information that the household must provide depends on whether the children are categorically eligible based on receipt of other benefits or must be determined eligible on the household's income. The information provided by the household on the application must be the most recent available. Households cannot be required to submit applications for free or reduced price benefits.

H. Benefits Prior to Processing/ Processing Timeframe

1. Before applications are processed for the school year, the SFA can only claim and be reimbursed for free and reduced price meals served to:

a. children from households with approved applications on file from the previous year;

b. new children in an SFA from households with children who were approved for benefits the previous year; and/or

c. previously approved children who transfer from one school to another under the jurisdiction of the same SFA. If the applications are not centrally maintained, both the sending and the receiving school must maintain a copy of the child's application.

2. SFAs must carryover the eligibility status from the previous year for any child described above. The carryover is for up to 30 operating days (beginning with the first day of school) into the current school year. This applies to direct certification, categorical eligibility determinations and income applications. However, the new eligibility determination supersedes the carryover eligibility. Local school officials are encouraged to expedite eligibility determinations for all new enrollees. SFAs must process the applications submitted for the current school year in a timely manner. SFAs cannot establish a shorter time frame for carryover. However, once an application is processed and approved or denied, the SFA must implement that determination.

3. Except during the initial carryover period, in order to be eligible for free or reduced price meals, a child must:

a. be directly certified with SNAP;

b. be directly certified as categorically eligible through the SFA's homeless or Migrant Education Program (MEP) liaison or other official sources; or

c. submit a complete application that qualifies the child as either categorically eligible or income eligible.

4. For each child served a meal that is claimed for federal reimbursement at the free or reduced price rate, the SFA must have one of the following on file:

a. a list of children directly certified with SNAP;

b. a list of children directly certified as categorically eligible through the SFA's homeless or Migrant Education Program (MEP) liaison or other official sources; or

c. an approved application.

5. Applications must be reviewed in a timely manner. The application process must be completed no later than 30 operating days from the first day of school. This process includes the distribution of applications and letters to the parent, the return of the application, eligibility determination, and notification to the parent. Within this timeframe, an eligibility determination must be made and implemented within 10 working days of the receipt of the application. Whenever possible, applications should be processed immediately, particularly for children who do not have approved applications on file from the previous year.

6. Early childhood education, pre-kindergarten, and kindergarten students are not included in the previous year's enrollment; therefore, local school officials are encouraged to distribute a free/reduced application during the early "round-up" enrollment for processing prior to the first day of school and for use during the first 30 operating days of the

new school year. New applications will need to be distributed upon the first day of school.

I. Determining if Submitted Applications are Complete

1. Categorical Eligibility (SNAP, FITAP or FDPIR Benefits)

a. These sources of categorical eligibility may be determined based on an application submitted by a household because these programs provide distinct case numbers. For these situations, a complete application must provide:

i. the names of the children for whom the application is made;

ii. a valid SNAP, FDPIR or FITAP case number or other FDPIR identifier for the child(ren) for whom the application is made; and

iii. the signature of an adult household member.

b. A child must be considered a member of household as established by SNAP, FITAP or by FDPIR. The composition of the SNAP, FITAP or FDPIR household may be different than that of the household applying for school meals.

c. While children may be categorically eligible due to their migrant, homeless or runaway status or due to enrollment in Head Start/Even Start, they cannot be determined eligible based on self-declaration of such status on an application. There is no provision for establishing eligibility for these programs based on case numbers as is permitted for SNAP, FITAP or FDPIR, even if the sponsoring agency provides case numbers. These children must be directly certified as categorically eligible through the school district's homeless or Migrant Education Program (MEP) liaison or other official sources. If there is an indication on the application that a child may be categorically eligible due to one of these categories, SFA officials must contact the household and then, if needed, contact the appropriate agency to confirm enrollment in that program. SFA officials must determine eligibility under these circumstances through the appropriate officials.

2. Income Eligibility

a. A complete application must provide:

i. the names of all household members;

ii. the amount and source of current income by each member and the frequency of the income;

iii. the signature of an adult household member; and

iv. the complete social security number of the adult household member who signs the application or an indication that the household member does not have a social security number.

3. Foster Child Eligibility

a. A complete application must provide the name of the child, the child's personal income, and the signature of an adult household member (this may be an official of a court or other agency with responsibility for the child).

4. Reviewing Submitted Applications for Completeness

a. The determining official must review each incoming application to ensure that the household has submitted a complete application. If the application is complete, the official must then determine whether the household is categorically eligible or income eligible for

benefits, based on the information provided on the application.

b. Any application that is missing required information, that contains inconsistent information, or is unclear is considered an incomplete application and cannot be processed. The SFA should make reasonable efforts to contact the household in order to obtain or clarify required information. The SFA must not delay approval of the application if the household fails to provide any information that is not required.

J. Citizenship/Legal Status

1. United States citizenship or immigration status is not a condition of eligibility for free and reduced price benefits. SFAs must apply the same eligibility criteria for citizens and non-citizens. USDA has determined that the NSLP and SBP are not subject to Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), which restricts certain welfare and public benefits for aliens.

K. Current Income/Conversion of Different Income Frequencies

1. For the purposes of certification of eligibility for free and reduced price meals, the household must provide their current income which is based on the most recent information available. This may be for the current month, the amount projected for the first month the application is made for, or for the month prior to application. If the household's current income is not a reflection of income that will be available over the school year, the household should contact the SFA for assistance. The SFA would determine the amount and frequency of income available during the school year for the household.

2. Households may have income from different sources which is paid on different schedules. These situations may or may not require conversion of income:

a. No Conversion Required

i. If there is only one source of income or if all sources are received in the same frequency, no conversion is required. The SFA would total all sources and compare them to the appropriate IEG

b. Conversion Required

i. If there are multiple income sources with more than one frequency, the SFA must annualize all income by multiplying:

(a). weekly income by 52;

(b). bi-weekly income (received every two weeks) by 26;

(c). semi-monthly income (received twice a month) by 24;

(d). monthly income by 12.

ii. Do not round the values resulting from each conversion.

iii. Add all of the un-rounded converted values and compare the un-rounded total to the appropriate IEG for annual income for the household size.

iv. SFAs cannot use conversion factors such as 4.33 to convert weekly income or 2.15 to convert bi-weekly income to monthly amounts. Software used must reflect this policy.

3. Each household must provide the total amount of their current income. Income must be identified with the individual who received it, and the source of the income.

Each household member who does not have income must also be identified and must have an indication of zero income on the application. Zero income may be indicated by checking a “no income” box, by writing in “zero” or “no income” or by inserting \$0.

L. Determining Eligibility

1. Categorical Eligibility Using Case Numbers

a. The determining official must assure that the SNAP or FITAP case number or the FDPIR case number or other identifier is valid. SFA officials must be familiar with the format of valid case numbers/other identifiers. If there is any doubt concerning the validity of a case number/other identifier submitted on an application, an SFA official should contact local SNAP, FITAP or FDPIR officials. Applications with invalid case numbers or FDPIR identifiers must not be approved. However, for any child with a valid case number/other identifier, the SFA must approve that child as eligible for free benefits.

b. Only the case number may be used to determine eligibility. The electronic benefit (EBT) card number used by SNAP cannot be used to establish categorical eligibility.

2. Categorical Eligibility Without Case Numbers

a. SFA officials must determine eligibility under these circumstances through the appropriate officials. If an SFA official or an official of the school district has knowledge that a child is a migrant, homeless or runaway child, that official may apply on that child’s behalf.

3. Income Eligibility

a. It is the responsibility of the determining official to compute the household’s total current income and compare the total amount to the appropriate IEG:

i. SFA officials must determine countable income.

ii. Households that submit a complete application indicating total household income at or below the income limits for free or reduced price benefits must be approved for free or reduced price benefits, as appropriate.

iii. Households that submit an incomplete application cannot be approved. If any required information is missing, the information must be obtained before an eligibility determination can be made.

iv. To get the required information, the school may return the application to the household or contact the household either by phone or in writing. The determining official should document the details of the contact, and date and initial the entry.

v. Applications missing the signature of an adult household member must be returned for signature.

vi. Every reasonable effort should be made to obtain the missing information prior to denying the application.

4. Verification for Cause

a. The SFA has an obligation to verify all approved applications that may be questionable (verification “for cause”). Such verification efforts cannot delay the approval of applications. If an application is complete and indicates that the child is eligible for free or reduced price benefits, the application must be approved. Only after the determination of eligibility has been made can the SFA begin the verification process.

M. Duration of Eligibility

1. Unless given a temporary approval, a child’s eligibility is in effect from the date of eligibility for the current school year and for up to 30 operating days in the subsequent school year. However, this does not apply when the initial eligibility determination was incorrect or when verification of household eligibility does not support the level of benefits for which the household was approved. In those instances, officials must make appropriate changes in eligibility.

N. Temporary Approval

1. Even though there is year-long eligibility, temporary approvals are very important in situations where households will be experiencing changes in income or household size that would affect children’s eligibility for free or reduced price meals. Therefore, when warranted, SFAs are encouraged to approve households on a temporary basis when their need for assistance appears to be short-term.

a. The suggested time period for temporary approvals is 30 calendar days unless a shorter timeframe is more appropriate for the household’s circumstances.

b. When a household reports zero income or a temporary reduction in income, eligibility must be determined based on the present rate of income rather than on regular annual income.

c. At the end of the temporary approval, school officials must re-evaluate the household’s situation and should contact the household to determine if the household’s circumstances have changed.

d. If the household’s situation at the end of the temporary approval remains the same, the SFA may either:

i. continue eligibility on a temporary basis and re-evaluate the situation at another interval; or

ii. make the approval valid for the duration of the current school year which would allow for carry-over of that status into the next school year.

e. If the household’s situation at the end of the temporary approval has changed, school officials must request that the household file a new application or have the household update the information on the existing application and initial and date the changes. The SFA must implement the new status within three operating days. Because these are temporary approvals that expire at the end of the time period, a notice of adverse action is not required.

2. Eligible children should receive temporary approval in the following types of economic situations:

a. zero income, for whatever reason (except foster children and institutionalized children);

b. temporary layoffs;

c. strikes (voluntary work stoppages);

d. temporary disability.

O. Unapproved Applications

1. Any child who is not categorically eligible or who is in a household that does not meet the income eligibility standards cannot be approved for benefits. If there are any inconsistencies or questions concerning the required eligibility information provided, the household’s application must be denied unless the inconsistencies or questions are resolved. School officials may contact the household prior to denial, document the details of the contact, and date and initial the entry.

P. Households That Fail to Apply

1. Local school officials may complete an application for a child known to be eligible if the household fails to apply. When exercising this option, the school official must complete an application on behalf of the child based on the best household size and income information available. The source of the information must be noted on the application. Names of household members, social security number, and signature of an adult household member need not be secured. These applications are excluded from verification. However, the household must be notified that the child has been certified to receive free or reduced price benefits. This option is intended for limited use in individual situations and must not be used to make eligibility determinations for categories or groups of children. School officials should consider providing temporary approval if circumstances warrant.

2. Because of delays in receiving documentation from appropriate agencies or officials, a school principal or other school official may submit an application on behalf of a child that they know to be categorically eligible due to their status as a migrant, homeless or runaway child. These applications must be done in accordance with the temporary approval procedures.

3. Once the documentation is received, that information must be noted on the application and the child's eligibility status is effective for the remainder of the school year and also would carryover for up to 30 operating days in the next school year. If no documentation is received to confirm the child's status as a migrant, homeless or runaway child, the child's benefits are terminated and a new application must be filed either by a school official or by the child's parent or guardian.

Q. Notification of Eligibility Determination

1. All households must be notified of their eligibility status. Households with children who are approved for free or reduced price benefits may be notified in writing or orally. Households with children who are denied benefits must be given written notification of the denial. The notification must advise the household of:

- a. the reason for the denial of benefits;
- b. the right to appeal;
- c. instructions on how to appeal; and
- d. a statement that the family may re-apply for free and reduced price benefits at any time during the school year.

R. Changes in Household Circumstances

1. Because of year-long duration of eligibility, households are no longer required to report changes in income or household size, or changes with regard to participation in a program that makes the children categorically eligible. However, families may voluntarily report changes. If a change is reported that will increase benefits, the SFA must put that change into effect. If the change will decrease benefits (free to reduced price) or terminate free or reduced price benefits (free or reduced price status to paid status), the SFA must explain to the household that the change does not have to go into effect but, that the household may request that the lower benefits go into effect. If so, the household would then be provided a written notice of adverse action.

S. Appeals

1. A household may appeal either the denial of benefits or the level of benefits for which they have been approved. When a household requests an appeal, the hearing procedures outlined in the SFA's free and reduced price policy statement must be followed.

T. Recordkeeping

1. Applications

a. SFA officials must do the following for approved applications:

- i. indicate the approval date;
- ii. indicate the level of benefit for which each child is approved;
- iii. sign or initial the application.

b. For denied applications, SFA officials must:

- i. indicate the denial date;
- ii. indicate the reason for the denial;
- iii. indicate the date the denial notice was sent;
- iv. sign or initial the application.

c. For computerized operations, where the computer generates the determination, the determining official may sign or initial and date a sheet of paper that would then be attached to a batch of applications. The computer system should be able to capture the original date of approval, the basis for the determination, and to update the status of applications to account for transfers, withdrawals, terminations, and other changes.

2. Updating Records for Changes during the School Year

a. If any change, such as a transfer to another school within the SFA or if the household voluntarily requests that a change be made, is made after the initial approval for the current school year, the SFA officials must:

- i. note the change;
- ii. write the date of the change on the application;
- iii. implement the change by updating rosters or other methods used at the point of sale, if necessary.

b. When a child transfers to another school within the SFA, the date of the transfer must be noted on the application.

3. Record Retention

a. All free and reduced price applications, including applications from households denied benefits and inactive applications, must be kept on file for a minimum of three (3) years after the final claim is submitted for the fiscal year to which they pertain. Files must be kept longer if they are required by an audit, as long as required for resolution of the issues raised by the audit. If audit findings have not been resolved, the applications must be retained as long as required for resolution of the issues raised by the audit.

b. Applications may be maintained either at the school or at a central location with a list of eligible children maintained at the school. If an SFA maintains applications at a central location, applications must be readily retrievable by school, and the SFA must ensure that any changes in eligibility status and transfers in and out of the school are accurately and promptly reflected on each school's list. If the applications are not maintained in the central office, the school from which the student transferred shall retain a copy of the student's application on file and the original application shall be transferred with the child.

U. Transferring Eligibility between SFAs

1. When a student transfers to another school district, the new SFA may accept the eligibility determination from the student's former SFA without incurring liability for the accuracy of the initial determination. When a copy of the application is provided, the accepting SFA should review the application for arithmetic errors and compare the income and household size to the applicable IEGs to assure that the correct level of benefits was assigned. If the accepting SFA determines that an arithmetic error occurred when determining the child's benefit level, the accepting SFA must notify the household that it must file an application in the new SFA in order to receive benefits. Also, the accepting SFA must make changes that occur as a result of any verification activities or review findings conducted in that SFA.

2. Local officials may wish to develop a cooperative transfer system between the private schools and the public school system within the same parish or city to provide eligibility information for students transferring between these schools.

V. Other Uses of Information from the Application

1. The information provided by families will be used only for determining eligibility for meal benefits and verification of eligibility. SFAs that plan to disclose children's eligibility status for purposes other than for determining and verifying free or reduced price eligibility must inform households of this potential disclosure. Additionally, in some cases, the SFA must obtain parental consent prior to the disclosure. SFAs that anticipate disclosure specifically to Medicaid or the Louisiana Children's Health Insurance Program (LaCHIP) must notify households of this potential disclosure and give households the opportunity to decline the disclosure.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2124 (December 2001), amended LR 29:2025 (October 2003), LR 32:1423 (August 2006), LR 37:

§507. Income Eligibility

A. Determining Household Composition

1. Economic Units

a. Household composition for the purpose of making an eligibility determination for free and reduced price benefits is based on economic units. An economic unit is a group of related or unrelated individuals who are not residents of an institution or boarding house but who are living as one economic unit, and who share housing and/or significant income and expenses of its members.

b. Generally, individuals residing in the same house are an economic unit. However, more than one economic unit may reside together in the same house. Separate economic units in the same house are characterized by prorating expenses and economic independence from one another.

2. Special Situations

a. Adopted Child

i. An adopted child for whom a household has accepted legal responsibility is considered to be a member of that household. If the adoption is a "subsidized" adoption, which may include children with special needs, the subsidy is included in the total household income.

ii. Because some adopted children were first placed in families as foster children, parents may not be aware that, once the child is adopted, s/he must be determined eligible based on the economic unit and all income available to that household, including any adoption assistance, is counted when making an eligibility determination.

b. Child Attending an Institution

i. A child who attends but does not reside in an institution is considered a member of the household in which she/he resides.

c. Child Residing in an Institution

i. A child residing in an RCCI participating in the NSLP and/or the SBP is considered a household of one.

d. Child Away at School

i. A child who is temporarily away at school (e.g., attending boarding school or college) is included as a member of the household.

e. Child Living With One Parent, Relative, or Friends

i. In cases where no specific welfare agency or court is legally responsible for the child or where the child is living with one parent, other relatives, or friends of the family, the child is considered to be a member of the household with whom she/he resides. Children of divorced or separated parents are generally part of the household that has custody.

f. Joint Custody

i. When joint custody has been awarded and the child physically changes residence, the child is considered part of the household where she/he resides. In these situations, if both parents apply for benefits in the same SFA for the child, and different eligibility statuses result, the greatest benefit level is used.

g. Emancipated Child

i. A child living alone, or as a separate economic unit is considered to be a household of one.

h. Foreign Exchange Student

i. A foreign exchange student is considered to be a member of the household in which she/he resides, i.e., the household hosting the student.

i. Foster Child

i. A foster child is a child who is living with a household but who remains the legal responsibility of the welfare agency or court. Such a child is considered a household of one.

j. Family Members Living Apart

i. Family members living apart on a temporary basis are considered household members. Family members not living with the household for an extended period of time are not considered members of the household for purposes of determining eligibility, but any money made available by them or on their behalf for the household is included as income to the household.

k. Deployed Service Personnel

i. While family members not living with the household for an extended period of time are not usually considered household members, any member of the armed services who is activated or deployed in support of any military combat operation is still counted as a household member.

B. Determining Household Income

1. Reportable Income

a. Income is any money received on a recurring basis, including gross earned income, unless specifically excluded by statute. Gross earned income means all money earned before such deductions as income taxes, employee's social security taxes, insurance premiums and bonds. Income includes but is not limited to:

- i. wages, salaries, tips, commissions or fees;
- ii. net income from self-owned business and farms;
- iii. strike benefits, unemployment compensation and worker's compensation;
- iv. public assistance payments/welfare benefits (FITAP, General Assistance, General Relief, etc.);
- v. alimony or child support payments;
- vi. pensions, retirement income, veterans' benefits;
- vii. social security;
- viii. supplemental security income;
- ix. disability benefits;
- x. net rental income, annuities, net royalties;
- xi. interest; dividend income;
- xii. cash withdrawn from savings; income from estates, trusts and/or investments;
- xiii. any other money that may be available to pay for the child(ren)'s meals.

2. Current Income

a. Households must report current income on a free and reduced price application. Current income means income received by the household for the current month, the amount projected for the first month the application is made for or the month prior to application. If this income is higher or lower than usual and does not fairly or accurately represent the household's actual circumstances, the household may, in conjunction with SFA officials, project its annual rate of income.

3. Special Situations

a. Projected Income for Seasonal Workers and Others

i. Seasonal workers and others whose income fluctuates usually earn more money in some months than in other months. Consequently, the previous month's income may distort the household's actual circumstances. In these situations, the household may project its annual rate of income and report this amount as its current income. If the prior year's income provides an accurate reflection of the household's current annual rate of income, the prior year may be used as a basis for the projected annual rate of income.

b. Income for the Self-Employed

i. Self-employed persons may use last year's income as a basis to project their current year's net income, unless their current net income provides a more accurate measure. Self-employed persons are credited with net income rather than gross income. Net income for self-employment is determined by subtracting business expenses from gross receipts. Gross receipts include the total income from goods sold or services rendered by the business. Deductible business expenses include the cost of goods purchased, rent, utilities, depreciation charges, wages and salaries paid, and business taxes (not personal, federal, state,

or local income taxes). Non-deductible business expenses include the value of salable merchandise used by the proprietors of retail businesses.

ii. Net income for self-employed farmers is figured by subtracting the farmer's operating expenses from the gross receipts. Gross receipts include the value of all products sold, money received from the rental of farm land, buildings, or equipment to others, and incidental receipts from the sale of items such as wood, sand or gravel. Operating expenses include cost of feed, fertilizer, seed and other farming supplies, cash wages paid to farmhands, farm building repairs and farm taxes (but not local, state and federal income taxes).

c. Income from Wages and Self-Employment

i. For a household with income from wages and self-employment, each amount must be listed separately. When there is a business loss, income from wages may not be reduced by the amount of the business loss. If income from self-employment is negative, it should be listed as zero income.

d. Military Benefits

i. Benefits received in cash, such as housing allowances and food or clothing allowances, are considered income.

e. Deployed Service Members

i. Only that portion of a deployed service member's income made available by them or on their behalf to the household will be counted as income to the household.

f. Foster Child's Income

i. Only the child's personal income is considered for eligibility purposes.

g. Income for a Child Residing in an RCCI

i. Only the income a child earns from full-time or regular part-time employment and/or personally receives while in residence at the RCCI as income.

h. Child's Income

i. The earnings of a child who is a full-time or regular part-time employee must be listed on the application as income.

i. Alimony and Child Support

i. Any money received by a household in the form of alimony or child support is considered as income to the receiving household.

ii. Any money paid by a household in the form of alimony or child support is not excluded from income for that household.

j. Garnished Wages and Bankruptcy

i. Income is the gross income received by a household before deductions. In the case of garnished wages and income ordered to be used in a specified manner, the total gross income must be considered regardless of whatever portions are garnished or used to pay creditors.

4. Income Exclusions

a. General Exclusions

i. Income not reported or counted as income in the determination of a household's eligibility for free and reduced price meal benefits includes:

(a) any cash income or value of benefits excluded by statute, such as the value of SNAP or FDPIR benefits and some federal educational benefits;

(b) payments received for the care of foster children;

(c). student financial assistance provided for the costs of attendance at an educational institution, such as grants and scholarships, awarded to meet educational expenses and not available to pay for meals;

(d). loans, such as bank loans, since these funds are only temporarily available and must be repaid;

(e). the value of in-kind compensation, such as housing for clergy and similar non-cash benefits;

(f). occasional earnings received on an irregular basis, such as payment for occasional baby-sitting or mowing lawns.

b. Military Benefits

i. An in-kind benefit, such as non-privatized on-base housing, where no cash is provided to the household, is not counted as income.

ii. Other sources of excluded income related to the military:

(a). Family Subsistence Supplemental Allowance (FSSA) is not counted as income in determining eligibility for free and reduced price meals;

(b). privatized housing allowances received under the Military Housing Privatization Initiative are not counted as income. Under this privatization initiative, a housing allowance appears on the leave and earnings statement of service members living in privatized housing. The exclusion only applies to service members living in housing covered under the Military Housing Privatization Initiative. Housing allowances for households living off-base in the general commercial/private real estate market are counted as income.

c. Institutionalized Child's Income

i. Payments from any source directly received by the RCCI on a child's behalf are not considered as income to the child.

d. Child's Income

i. Infrequent earnings, such as income from occasional babysitting or mowing lawns, are not counted as income and should not be listed on the application.

e. Lump Sum Payments

i. Lump sum payments or large cash settlements are not counted as income since they are not received on a regular basis. These funds may be provided as compensation for a loss that must be replaced. However, when lump sum payments are put into a savings account and the household regularly draws from that account for living expenses, the amount withdrawn is counted as income.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE Promulgated by the Board of Elementary and Secondary Education, LR 27:2127 (December 2001), amended LR 32:1424 (August 2006), LR 37:

§509. Categorical Eligibility

A. Members of SNAP/FITAP/FDPIR Households

1. A child who is a member of a household receiving assistance from SNAP, FITAP or FDPIR is categorically eligible for free meal benefits. SFAs must give households applying for free and reduced price meal benefits for their children the opportunity to indicate on the application that the children are categorically eligible for free benefits and to provide case numbers. In cases where no specific welfare agency or court is legally responsible for the child or where the child is living with a household in which he/she is not a member of the family, the child is considered to be a

member of the household with whom he/she resides. If the household receives SNAP benefits, or if other children in the household receive FITAP benefits, the single SNAP or FITAP number provided on the application would qualify the student living in the household for free meals.

2. If a household submits an application for children who were directly certified, the SFA must disregard the paper application. Direct certification takes precedence over an application submitted by the household.

3. Participation in the state's Medicaid Program does not qualify a child as categorically eligible to receive free meal benefits.

B. Head Start/Even Start

1. Children enrolled in federally-funded Head Start centers that meet the low-income criteria of the Head Start Program are considered categorically eligible for free meals in the NSLP. Children enrolled in state-funded pre-kindergarten Head Start programs with eligibility requirements identical to or more stringent than those used by the federally-funded Head Start centers are also considered categorically eligible.

2. For a child to be categorically eligible for free meals based on their participation in Even Start, the child must be enrolled as a participant in a federally-funded Even Start Family Literacy Program and must be at the pre-kindergarten level.

3. Documentation of a child's participation in a federally-funded Head Start or Even Start program is required to establish categorical eligibility for free meals in the NSLP. Confirmation that the child has not yet entered kindergarten must be included in the documentation from the Even Start official. Acceptable documentation includes:

a. an approved Head Start or Even Start application for the child's family or statement of enrollment in Head Start or Even Start; or

b. a list of children participating in Head Start or Even Start; and

c. in the case of Even Start, confirmation that the child has not yet entered kindergarten.

C. Migrant Education Program

1. A child is considered categorically eligible if she/he is identified as meeting the definition of migrant in section 1309 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6399) by the state or local Migrant Education Program (MEP) coordinator or the local educational liaison. It is not necessary for SFA officials to make the determination about whether a child is considered as migrant for the MEP. State educational agencies and local MEP staff are responsible for identifying (and maintaining supporting documentation on) eligible migrant children.

2. SFAs should work directly with their school district's MEP coordinator or, where appropriate, the state MEP director, to identify migrant children and to document their eligibility for free school meals. SFAs must accept documentation that the children are migrant children from the school district's MEP coordinator. Acceptable documentation for MEP enrollment is a dated list containing each child's name and the signature of the MEP coordinator or the state MEP director. This documentation is in lieu of free and reduced price meal applications and must be sought, as much as possible, prior to a household completing an application. Once documentation is obtained, the SFA must

notify the household as soon as possible about the child's free meal eligibility. Because documentation of MEP enrollment is acceptable in lieu of a free and reduced price meal application, any application submitted on behalf of the child would be disregarded.

3. Newly arrived migrant children in the SFA must be documented and certified for free meals as promptly as possible. SFAs must establish procedures with the MEP coordinator to assure prompt notification when a new migrant child is identified.

4. To assure that an eligible migrant child continues to receive benefits, SFAs are encouraged to share the child's free meal eligibility status with the new SFA when a migrant child moves from their jurisdiction.

D. Runaway and Homeless Youth Act

1. A runaway child is one who is identified as a runaway receiving assistance through a program under the Runaway and Homeless Youth Act (RYHA) by the local educational liaison. Acceptable documentation to substantiate participation in a program for runaway children sponsored by RHYA must include the child's name or a list of names of participating children, the effective date(s) and the signature of the school district's homeless liaison. Because documentation of enrollment in an RHYA-funded program is acceptable in lieu of a free and reduced price meal application, any application submitted on behalf of the child would be disregarded.

2. Runaway children who may be enrolled in an RHYA-funded program must be documented and certified for free meals as promptly as possible. SFAs must establish procedures with the homeless coordinator to assure prompt notification when a homeless child is identified.

E. McKinney-Vento Homeless Assistance Act

1. A child is considered homeless if she/he is identified as lacking a fixed, regular and adequate nighttime residence under the McKinney-Vento Homeless Assistance Act by the local educational agency liaison, or the director of a homeless shelter.

2. The term "homeless" means individuals who lack a fixed, regular and adequate nighttime residence. The definition includes:

a. children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks or camp grounds due to the lack of alternative adequate accommodations;

b. children and youths who are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

c. children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;

d. children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and

e. migratory children who qualify as homeless because the children are living in the circumstances described above.

3. Acceptable documentation that the children are homeless is obtained from the local educational homeless liaison or directors of homeless shelters where the children

reside. Documentation to substantiate free meal eligibility must consist of the child's name or a list of names, effective date(s) and the signature of the local educational liaison or the director of the homeless shelter.

4. Homeless Children Residing with another Household

a. A child or family may temporarily reside with another household and still be considered homeless under the definition of homeless in McKinney-Vento. In these cases, the household size and income of the host family is not taken into consideration in determining the free meal eligibility for the child(ren) designated as homeless by the local educational agency liaison.

b. When a host family applies for free and reduced price meals for their own children, the host family may include the homeless family as household members if the host family provides financial support to the homeless family, such as shelter, utilities, clothing or food. In such cases, the host family must also include any income received by the homeless family. School officials must determine eligibility for the host family in the traditional manner. However, free meal eligibility for the homeless child is based on the documentation provided by the local education liaison, even when the child is included on the host family's free and reduced price meal application.

F. Duration of Categorical Eligibility

1. Because households are not required to report changes in income or household size during the school year, the household is not required to report a change in their categorical eligibility status if they no longer receive benefits or participate in the programs discussed above.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2128 (December 2001), amended LR 32:1424 (August 2006), LR 37:

§511. Direct Certification

A. Direct certification is the process under which SFAs certify children who are members of households receiving assistance under SNAP as eligible for free school meals, without further application, based on information provided by the state agency administering the program.

B. Mandatory Direct Certification with SNAP

1. By law, all SFAs, regardless of size, must be directly certifying children from SNAP households.

C. Methods of Direct Certification

1. To perform direct certification, the SFA identifies children eligible for free meals through a computer match with SNAP information, or through a paper-based exchange of information.

2. Since children's eligibility for free meals is based on documentation obtained from SNAP officials, verification of eligibility is not required for children who have been directly certified.

D. Required Documentation for Direct Certification for SNAP

1. Documentation to establish children's eligibility for free meals under direct certification for SNAP, and to substantiate claims for reimbursement, must include:

a. names of children currently certified to receive SNAP benefits;

b. a statement certifying that each child is a member of a SNAP household;

c. at least three pieces of identifying information that will match each child with a child attending a particular school. Examples of identifiers include:

- i. children's birth dates;
 - ii. addresses;
 - iii. parents' names;
 - iv. social security numbers; or
 - v. other identifiers;
- d. the date; and
- e. the signature of a SNAP official.

E. Notification to Households about Eligibility Established through Direct Certification

1. The SFA must notify the household that:

- a. the child(ren) is/are eligible for free benefits;
- b. no further application is necessary; and
- c. how to notify the SFA if it does not want free benefits for directly certified children.

2. SFAs must ensure that families receive either a direct certification notification or an application for free and reduced price school meals. SFAs that distribute the application materials through the mail, individual student packets, or other method that prevents the overt identification of children eligible for direct certification are not required to distribute application materials to families in which all children were determined eligible through the direct certification process.

3. The state agency will obtain documentation from SNAP officials, based on the most current certification information available and as close to the beginning of the school year as possible.

F. Delivery of Benefits

1. The SFA must provide benefits promptly. Eligible children may receive benefits immediately and the SFA may assume consent if refusal has not been received within a certain number of days, as determined by the SFA.

2. If the household refuses benefits, the SFA must discontinue benefits immediately and must document the refusal.

G. Expiration of Categorical Eligibility

1. Because of year-long duration of eligibility, households are no longer required to report changes in their categorical eligibility status. However, households may voluntarily report a change. If a household reports a change that may reduce or terminate benefits, the SFA must explain to the household that the change does not have to go into effect but, that at the household's request, the change will go into effect. If the household wants the change to go into effect, the SFA must provide a notice of adverse action.

H. Recordkeeping

1. SFAs must keep documentation for direct certification on file for a minimum of three (3) years after submission of the final claim for reimbursement for the fiscal year to which they apply. Documentation must be kept longer if required by an audit as long as required for resolution of the issues raised by the audit.

2. Documentation may be maintained either at the school or at a central location with a list of eligible children maintained at the school. If an SFA maintains documentation at a central location, children's categorical eligibility status must be readily retrievable by school, and the SFA must ensure that any changes and transfers in and out of the

school are accurately and promptly reflected on each school's list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2129 (December 2001), amended LR 32:1425 (August 2006), LR 37:

§513. Program Operations

A. Nondiscrimination

1. There must not be any discrimination of children receiving free and reduced price benefits.

2. The names of the children must not be published, posted or announced in any manner.

3. The children must not be required to work for their meals.

4. The children must not be required to use a separate dining room, separate serving line, or separate time, etc.

5. There must not be any overt identification of any of the children by use of special tokens or tickets, or other means of identification. The SFA must use the collection procedure approved as part of its yearly update to the permanent agreement.

6. There must not be any discrimination on the basis of race, color, national origin, age, sex, or disability in the application approval process or in the selection of applications for verification.

B. Prohibition against Denying Meals to Children as a Disciplinary Action

1. Regulations prohibit the denial of free, reduced price, or paid meals as disciplinary action to any child in attendance at school. This prohibition does not extend to the denial of meals for failure to pay. Denying meals to students for disciplinary reasons associated with disruptive behavior in the cafeteria, selling free meal tickets, etc., is prohibited under federal regulations. Disciplinary action used for other unacceptable behavior could be applied in these situations.

C. Denying Meals to Students for Failure to Pay

1. The SFA is not obligated to continue providing meals without receiving payment. The students' ability to pay is determined through the free and reduced price meal application process. Those students not eligible for free meals must pay for their meals at the prices established for full price and reduced price students. Regulations do not prohibit a school system from denying a meal to paying students who have not paid for the meal.

D. Handling Lost, Stolen, and Misused Meal Tickets

1. SFAs may establish procedures to limit the number of times replacement tickets or special meal arrangements must be provided to needy students who report lost or stolen meal tickets. The term ticket refers to any and all forms of exchange used, including paper tickets, cards, coins, or tokens. It should be noted that, when handling instances of missing tickets, schools need not actually issue a replacement ticket if appropriate meal arrangements are made, such as accompanying the student through the cafeteria line.

2. Any procedures established to limit the number of tickets reissued to needy students must conform to all of the following standards.

a. Parents and students must be advised in writing of the school's policy regarding missing tickets and of the students' corresponding responsibility for their tickets. Such

notice shall be provided at the time applications are distributed to households or upon approval for free or reduced price benefits.

b. A minimum of three ticket replacements, or special meal arrangements resulting from three lost or stolen tickets, must be allowed each student within each school year.

c. The school must maintain a list of students who have reported missing original ticket(s) in the current school year and the number of occurrences for each student. Prior to denying a meal to any student without a ticket, the list should always be reviewed to determine whether the student has already had at least three ticket replacements or special meal arrangements for lost or stolen tickets within the school year.

d. At least one advance written warning must be given to the student(s) and the parent(s) prior to refusal to allow additional meals or ticket replacements. The written warning must include an explanation that the student has repeatedly requested replacement tickets and that each subsequent time the student fails to have a ticket, he/she will be expected to pay for the meal.

e. Meals must always be provided to preprimary and young primary students or for any disabled student who may be unable to take full responsibility for a meal ticket.

3. It is recommended that the meal or ticket replacement policy for missing free and reduced price tickets be extended to the loss of full-priced tickets. If such a uniform policy is not implemented, schools should exercise caution to prevent overt identification of needy students, when reissuing tickets or providing meals to students whose tickets are missing.

E. Confidentiality and Disclosure of Eligibility Information

1. General Confidentiality and Disclosure Information

a. SFAs may disclose children's free and reduced price meal eligibility information to programs, activities and individuals that are specifically authorized access under the National School Lunch Act (NSLA). Disclosure is always an option, not a requirement. The SFA must make the decision on whether or not children's information will be disclosed. The SFA may opt to disclose children's eligibility information to Medicaid or Louisiana State Children's Health Insurance Program (LaCHIP) officials if the family does not decline to have their children's eligibility information released.

2. Aggregate Information

a. The SFA may disclose aggregate information to any program or individual when children cannot be identified through release of the aggregate data or by means of deduction. As aggregate data does not identify individual children, parental notification and parental consent are not needed. However, SFAs are cautioned about the release of aggregate data when individual children's eligibility may be deduced, such as the release of data about a specific classroom or subset, when the number of eligible children is very small.

3. Disclosure Chart

a. The NSLA specifies that persons directly connected with the administration or enforcement of certain programs or activities are permitted to have access to children's eligibility information. Refer to USDA's

publication, *Eligibility Guidance for School Meals*, for additional information.

4. Need to Know

a. Although a program or person may be authorized under the NSLA to receive free and reduced price eligibility information, there must be a legitimate need to know to provide a service or carry out an authorized activity.

b. State Medicaid and LaCHIP agencies and health insurance program operators receiving children's free and reduced price meal eligibility information must use that information to enroll children in state Medicaid or LaCHIP. The state Medicaid or LaCHIP enrollment process may include seeking to identify and identifying children from low income households, who are potentially eligible for state Medicaid or LaCHIP for the purpose of enrolling them in state Medicaid or LaCHIP.

5. National Assessment of Educational Progress (NAEP)

a. SFAs may disclose, without parent/guardian consent, children's names and eligibility status to persons who are directly connected to the administration or enforcement of NAEP because NAEP is a federal education program.

b. Additionally, SFAs may disclose children's names and eligibility status to persons directly connected with the administration or enforcement of state educational assessment programs to the extent that the state assessment is part of the NAEP, or the assessment program is established at the state, not local level. Other state education programs also are eligible to have access to participants' names and eligibility status, without parent/guardian consent, but the program must be established at the state, not local level.

c. The term "persons directly connected" for the purpose of disclosure to NAEP includes federal, state and local program operators responsible for NAEP program administration or program compliance and their contractors. This does not imply that these persons have routine access to participants' eligibility status. There must be a "need to know" for legitimate NAEP purposes.

d. SFAs are encouraged to inform households when they plan to disclose or use eligibility information outside the originating program and to have a written agreement with NAEP officials.

6. No Child Left Behind (NCLB)

a. Because NCLB is a federal education program, SFA officials may disclose a child's eligibility status to persons directly connected with, and who have a need to know, a child's free and reduced price meal eligibility status in order to administer and enforce the NCLB requirements. However, other information obtained from the free and reduced price school meal application or obtained through direct certification cannot be disclosed. SFA officials must keep in mind that the intent of the confidentiality provisions is to limit the disclosure of a child's eligibility status to those who have a "need to know" for proper administration and enforcement of a federal education program. SFAs must establish procedures that limit access to a child's eligibility status to as few individuals as possible.

b. SFA officials, prior to their disclosing information on the eligibility of individual children, should enter into a memorandum of understanding or other

agreement to which all involved parties (including both officials who administer the school meals programs and officials who administer the overall education functions) would adhere. This agreement would specify the names of individuals who would have access to the information, how the information would be used in implementing NCLB and how the information will be protected from unauthorized uses and third-party disclosures, and should include a statement of the penalties for misuse of the information.

7. Family Educational Rights and Privacy Act (FERPA)

a. The Federal Department of Education has established that education records are under the purview of FERPA. However, for the schools meals programs, the restrictions imposed by the laws governing these programs, not FERPA, apply.

8. Parental Notification for Disclosure

a. Unless otherwise indicated, SFAs must inform households if they plan to disclose or use eligibility information outside the originating program (NSLP or SBP). This may be done as either a general notification of potential disclosure or a specific notification to disclose information to a particular program.

b. The notice of potential disclosure or specific disclosure may be in the Letter to Households that accompanies the free and reduced price meal application, on the application, or, for children directly certified, in the document informing households of the participants' eligibility through direct certification. The notification should state that the children's names, eligibility status and other information provided on the application or obtained through direct certification may be disclosed to certain federal, state or local agencies as authorized by the NSLA. A list of the specific programs is not necessary.

c. Parents/guardians must be notified of the potential disclosure or specific disclosure and given the opportunity to elect not to have their children's information disclosed. The notification of potential disclosure or specific disclosure must inform the parents/guardians:

- i. that they are not required to consent to the disclosure;
- ii. that the information will be used to facilitate the enrollment of eligible children in a health insurance program or other programs; and
- iii. that their decision will not affect their children's eligibility for free and reduced price meals.

d. The notice of either potential or specific disclosure must be given prior to disclosure and parents/guardians given a reasonable time limit to respond. For children who are determined eligible through direct certification, the notice of potential or specific disclosure may be in the document informing parents/guardians of their children's eligibility for free meals through direct certification.

9. Agreements/Memoranda of Understanding

a. An agreement is not needed for federal, state or local agencies evaluating or reviewing Child Nutrition Program operations. Similarly, an agreement is not necessary for disclosures to the Comptroller General. These activities are part of routine operations of the Child Nutrition Programs and enforcement.

b. For non-Medicaid/LaCHIP agencies, the SFA should enter into a written agreement with other entities, including NAEP, requesting the information prior to disclosing children's eligibility information. The agreement should:

- i. be signed by both the SFA and receiving entity;
- ii. identify the entity receiving the information;
- iii. describe the information to be disclosed and how it will be used;
- iv. describe how the information will be protected from unauthorized uses and disclosures; and
- v. describe the penalties for unauthorized disclosure.

c. For any disclosures to Medicaid and LaCHIP, the SFA and receiving agency must have an agreement or Memorandum of Understanding which includes:

- i. the health insurance program or health agency receiving the children's eligibility information;
- ii. the information that will be disclosed and specify that the information must only be used to seek to enroll children in state Medicaid or LaCHIP;
- iii. how the information will be used and how it will be protected from unauthorized uses and disclosures;
- iv. the penalties for unauthorized disclosure; and
- v. the signature of the determining agency and the state Medicaid/LaCHIP program or agency receiving the children's eligibility information.

d. In all cases, the receiving entity must be informed in writing that:

- i. eligibility information may only be used for the purpose for which the disclosure was made;
- ii. further use or disclosure to other parties is prohibited; and
- iii. a violation of this provision may result in a fine of not more than \$1000 or imprisonment of not more than one year, or both.

10. Other Disclosures that Require Parental Consent

a. Children's parents or guardians may always provide consent for the disclosure of any or all of the information related to their children's eligibility status, or the information that the household provided through the free and reduced price meal eligibility process.

b. A disclosure of all eligibility information to any other federal, state or local program or individual not included in the NSLA requires parental consent. Other programs that require parental consent are local health and local education programs and other local level activities. The disclosure of information other than names and eligibility status to the programs authorized only to receive participants' names and eligibility status also requires written consent.

11. Consent Statement Requirements

a. The consent statement must be in writing. It may be obtained at the time of application, or at a later time. The consent statement must:

- i. identify the information that will be shared and how the information will be used;
- ii. be signed and dated. In the case of a child participant, the consent statement must be signed by the parent or guardian of the applicant household, even though the application for free and reduced price meals may be signed by any adult household member;

iii. state that failing to sign the consent statement will not affect eligibility or participation for the program and that the information will not be shared by the receiving program with any other entity or program; and

iv. enable the parent/guardian/adult to limit consent to only those programs with which he or she wishes to share information.

12. Social Security Numbers

a. The free and reduced price application requires the complete social security number of the adult household member who signs the application. Most programs that request children's free and reduced price meal eligibility information will not need the adult's social security number. However, when disclosing or using the social security number provided by the household on the application for any purpose other than the program for which the number was collected (NSLP, SBP, etc.), the determining agency must modify the notice required by the Privacy Act of 1974 concerning the potential uses of the social security number. The notice must inform households of the additional intended uses of the number.

13. Penalties for Improper Disclosure

a. The NSLA establishes a fine of not more than \$1000 or imprisonment of not more than one (1) year, or both, for publishing, divulging, disclosing, or making known in any manner or extent not authorized by federal law, any eligibility information. This includes the disclosure of eligibility information by one entity authorized under the NSLA to receive the information to any other entity, even if that entity would otherwise be authorized to receive the information directly from the determining agency.

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§515. Verification of Eligibility for School Meals

A. General

1. Verification is confirmation of eligibility for free and reduced price meals under the NSLP and SBP. Verification is only required when eligibility is determined through the application process, not through direct certification. Verification must include either confirmation of income eligibility, or confirmation that the child is a member of a family (household) receiving assistance under SNAP, FITAP or FDPIR. Verification may include confirmation of any other information required on the application.

B. Exceptions from Verification Requirements

1. Verification efforts are not required:

a. for children who have been certified under direct certification procedures including children documented as eligible migrant, runaway or homeless children;

b. for children in RCCIs except for applications for any day students attending the institution;

c. in schools in which the FNS has approved special cash assistance claims based on economic statistics regarding per capita income;

d. in schools in which all children are served with no separate charge for food service and no special cash assistance is claimed;

e. in SFAs in which all schools participate in Provisions 1, 2 or 3 except in those years in which

applications are taken for all students in attendance (base years).

C. Initial Verification Procedures

1. Each SFA must annually verify eligibility of children from a sample of household applications approved for free and reduced price meal benefits for that school year. The SFA may begin verification activity once the application approval process for the current school year is underway and there are approved applications on file. To do so, the SFA may project the number of approved applications that it anticipates will be on file on October 1. The projected number is based on prior years' experience. However, the final sample pool is the actual number of approved applications on file as of October 1. The sample size must be based on the October 1 sample pool. Any estimates must be compared with the actual number of applications on file on October 1 and the sample pool and sample size adjusted accordingly.

2. The sample pool uses the total number of approved applications on file as of October 1 of the current school year. SFAs may choose not to count applications for students in split-session kindergarten programs participating in the Special Milk Program when determining the verification sample pool. The sample pool depends on the number of applications (paper or electronic) and is not based on the number of children eligible for free and reduced priced meals.

3. Once the sample pool is determined, the SFA calculates the sample size – the number of applications that must be verified. When calculating the sample size, all fractions or decimals are rounded upward to the nearest whole number. At least one application must always be verified. With the exception of verification for cause, SFAs must not verify more than or less than the standard sample size or the alternate sample size (when used) and must not verify all (100 percent of) applications. Verification conducted "for cause" is done in addition to the required verification sample size.

4. The SFA must complete the verification activities specified in this section not later than November 15 of each school year. However, the SFA may request an extension of the November 15 deadline, in writing, from the SA. The SA may approve, in writing, an extension up to December 15 of the current school year due to natural disaster, civil disorder, strike or other circumstances that prevent the SFA from the timely verification activities.

D. Verification for Cause

1. The SFA has an obligation to verify all questionable applications (verification "for cause"). Such verification efforts cannot delay the approval of applications. If an application is complete and indicates that the child is eligible for free or reduced price benefits, the application must be approved. Only after the determination of eligibility has been made can the SFA begin the verification process.

2. To verify an approved application for cause, the SFA must send the household a letter explaining that it must submit verification of eligibility information with the application for continued eligibility. The verification letter may be sent at the same time as a notice of eligibility.

3. The SFA verifies applications for cause following the same procedures used for verifying the regular sample of applications used for verification. Any household that fails to

submit requested verification information by the date specified by the SFA or that submits verification information that does not support the initial determination of eligibility must be sent a Notice of Adverse Action. Once households have been requested to provide documentation for cause, the SFA must complete the verification process for these households.

E. Application Selection Procedures

1. There are three sample sizes established for verification activities. The standard sample size must be used by SFAs unless it qualifies to use one of the alternate sample sizes

a. Standard Sample Size

i. The standard sample size is the lesser of:

(a). three percent of all applications approved by the SFA for the school year, as of October 1 of the school year, selected from error prone applications; or

(b). 3000 error prone applications approved by the SFA for the school year, as of October 1 of the school year.

b. Alternate Sample Sizes

i. The Alternate One sample size equals the lesser of:

(a). 3000 of all applications selected at random from applications approved by the SFA as of October 1 of the school year; or

(b). three percent of all applications selected at random from applications approved by the SFA as of October 1 of the school year.

ii. The Alternate Two sample size equals the lesser of the sum of:

(a). 1000 of all applications approved by the SFA as of October 1 of the school year, selected from error prone applications; or

(b). one percent of all applications approved by the SFA as of October 1 of the school year, selected from error prone applications; plus

(c). the lesser of:

(i). 500 applications approved by the SFA as of October 1 of the school year that provide a case number in lieu of income information; or

(ii). 1/2 of one percent of applications approved by the SFA as of October 1 of the school year that provide a case number in lieu of income information.

2. For sample sizes based on error prone applications, there may not be enough applications that meet this criterion. When this happens, the SFA must select, at random, additional approved applications (from both income and case numbers applications) to complete the required sample size. In other situations, the number of error prone applications may exceed the required sample size. When this happens, the SFA must randomly select the required number of applications from all error prone applications.

F. Qualifying to Use an Alternate Sample Size

1. There are two ways an SFA may annually qualify to use an alternate sample size based on lowered non-response rates.

a. Any SFA may use an alternate sample size for any school year when its non-response rate for the preceding school year is less than twenty percent.

b. An SFA with more than 20,000 children approved by application as eligible for free or reduced price

meals as of October 1 of the school year may use an alternate sample size for any school year when its non-response rate for the preceding school year is at least ten percent below the non-response rate for the second preceding school year.

2. The SFA must annually determine if it is eligible to use one of the alternate sample sizes. If the SFA determines it is eligible, it must contact the SA in accordance with any procedures established by the state agency for use of alternate sample sizes.

G. Post Selection Procedures

1. There are two procedures that the SFA completes prior to contacting the household to obtain documentation of eligibility. These are the required confirmation reviews and the optional replacement of certain applications.

a. Confirmation Reviews

i. Prior to any other verification activity, an SFA official, other than the official who made the initial eligibility determination, must review each approved application selected for verification to ensure that the initial determination was accurate. This requirement is waived if the SFA uses a technology-based system that demonstrates a high level of accuracy in processing an initial eligibility determination. SFAs must contact the state agency to determine if their system qualifies them for this waiver. Further, any SFA that conducts a confirmation review of all applications at the time of certification is not required to conduct confirmation reviews.

b. Outcome of Confirmation Reviews

i. Depending on the outcome of each confirmation review, the SFA takes one of the following actions:

(a). No Change in Status

(i). If the initial eligibility status was correct, the SFA verifies the application.

(b). Status Changes from Reduced Price to Free

(i). The SFA makes the increased benefits available immediately, notifies the household of the change in benefits, and verifies the application. If verification reduces the level of benefits (from free to reduced price or paid), the household is sent a notice of adverse action.

(c). Status Changes from Free to Reduced Price

(i). The SFA does not change the child's status, and verifies the application. If the child's free status is verified, the SFA does not notify the household. However, if the child's status changes from free to either reduced price or paid, the household is sent a notice of adverse action.

(d). Status Changes from Free or Reduced Price to Paid

(i). The SFA immediately sends the household a notice of adverse action, does not verify the application, selects a similar application (ex. another error-prone application) for verification, and follows the confirmation review procedures for the newly selected application.

c. Replacing Applications

i. After completing the confirmation reviews, the SFA may, on a case-by-case basis, replace up to five percent of applications selected. Applications may be replaced when the SFA believes that the household would be unable to satisfactorily respond to the verification request. Any applications removed must be replaced with another

approved application selected on the same basis (i.e., an error-prone application must be substituted for a withdrawn error-prone application). The newly selected application must then have confirmation review.

ii. In those SFAs where five percent of total applications result in less than one, one application may still be replaced. All results of the five percent calculation are rounded up to the next whole number.

H. Household Notification of Selection

1. When a household is selected for verification and is required by the SFA to submit documents or other forms of evidence to document eligibility, the household must be sent a letter informing them of their selection and of the types of information acceptable to the SFA. The letter must include the following:

- a. that the household was selected for verification;
- b. that the household must provide the complete social security number for each adult household member or indicate that an adult household member does not possess one; an adult member is anyone who is 21 years of age or older;
- c. a Privacy Act statement;
- d. the types of acceptable information that may be provided to confirm current income, including pay stubs, award letters from assistance agencies, social security, and support payment decrees from courts;
- e. that the household may provide proof that the child is a member of a household receiving assistance under SNAP, FITAP, or FDPIR instead of providing income information and social security numbers of adult household members;
- f. that documentation of income or receipt of assistance may be provided for any point in time between the month prior to application and the time the household is required to provide income documentation;
- g. that information must be provided by a date specified by the SFA and that failure to do so will result in termination of benefits; and
- h. the name of an SFA official who can answer questions and provide assistance; and
- i. a telephone number that is available at no cost to the household. The SFA may establish a toll-free number or allow the household to reverse charges if any households in that SFA are outside the local calling area. The SFA may also provide different telephone numbers for each local calling area within the SFA.

2. When the SFA uses agency records or direct verification to confirm eligibility, a letter informing the household of its selection for verification is not required, since the household will not have to provide documents.

I. Sources of Verification

1. Written Evidence

a. Written evidence is the primary source of eligibility confirmation for all households including SNAP and FITAP households. Written evidence is most often pay stubs from employers or award letters from welfare departments or other government agencies submitted by the household to the verifying officials as confirmation of eligibility.

i. Acceptable written evidence for income eligible households contains the name of the household

member, amount of income received, frequency received, and the date the income was received.

ii. Acceptable written evidence for categorically eligible households contains a written statement from the SNAP or FITAP agency that specifies that the child is a member of a household which is receiving benefits, such as a notice of eligibility. The verifying official should examine this notice of eligibility to ensure that the child for whom application was made is part of a household currently participating in SNAP or FITAP. Electronic Benefit Transfer (EBT) cards cannot be used to confirm SNAP eligibility, and therefore cannot be used for categorical eligibility purposes. A SNAP or FITAP document that does not specify the certification period is not adequate for documentation. A household that does not have satisfactory SNAP or FITAP documentation may request a signed, dated letter from the SNAP or FITAP office, certifying that the child for whom the application is being submitted is part of a household currently receiving SNAP or FITAP benefits.

b. If a household is selected for regular verification or verification for cause and the application indicates zero income, the SFA must request an explanation of how living expenses are met and may request additional written documentation or collateral contacts.

2. Collateral Contacts

a. A collateral contact is a person outside of the household who is knowledgeable about the household's circumstances and can give confirmation of a household's income, SNAP or FITAP status, or other categorical eligibility such as Head Start. Collateral contacts include employers, social service agencies, migrant worker' agencies, and religious or civic organizations.

b. The verifying official should request a collateral contact only in cases when the household has not been able to provide adequate written evidence. A collateral contact would not be expected to provide social security numbers of the adult household members. These still must be provided by the household.

c. The verifying official must give the household the opportunity to designate the collateral contact. However, the verifying official may select a collateral contact if the household fails to designate one or designates one who is unacceptable to the verifying official. In either case, no contact may be made without first notifying the household and obtaining their permission.

d. All collateral contacts may be written or oral and must be documented, dated, and initialed. The SFA will examine any written information provided by the collateral contact or evaluate any oral information. If the collateral contact is unwilling or unable to provide the requested information, the SFA must contact the household to complete the verification process.

e. Verification of eligibility for households that provide a SNAP or FITAP case number on the application may be accomplished by submitting a list of names and SNAP or FITAP case numbers to the local SNAP or welfare office for confirmation of certification of receipt of benefits from agency records.

3. Agency Records

a. A household's eligibility may be confirmed through the use of information maintained by other government agencies to which the SA, SFA, or school has

legal access. Although USDA regulations do not require that households be notified of selection when verification is made through agency records, such agencies may have their own notification requirements.

b. One source of agency records is the wage and benefit information maintained by the state employment agency if that information is available to the verifying official. Such records are state records, and the release of information maintained by state employment offices is governed by state law.

c. Acceptable documentation of income or receipt of assistance from any of the above sources may be provided for any point in time between the month prior to application and the time the household is required to provide income documentation.

J. Continuing the Verification Process Subsequent to Household Notification

1. To continue the verification process, the SFA must either determine if the household has submitted adequate information to complete its individual verification activity or if a follow-up with the household is needed.

a. When Verification is Considered Complete

i. The following list shows how the SFA determines if the household adequately responded and follow-up is not required:

(a). The household submits the required social security numbers (income applications only) and there is either adequate written evidence or collateral contact corroboration of income or categorical eligibility. Verification is considered complete for this household.

(b). The household submits the required social security numbers (income applications only) and there is either adequate written evidence or collateral contact corroboration of income which indicates that the child(ren) should receive either a greater or lesser level of benefits. Verification is considered complete for this household when the notice of adverse action is sent or the household is notified that its benefits will be increased. If verification results in higher benefits, this change is effective immediately and must be implemented no later than three operating days later. Parents should be notified through whatever channels the SFA uses to notify the household of approval for benefits.

(c). The household indicates, verbally or in writing, that it no longer wishes to receive free or reduced price benefits. Verification is considered complete when the notice of adverse action is sent.

(d). When it is determined that a child is not part of a household currently certified to receive SNAP or FITAP benefits. Verification is considered complete when the notice of adverse action is sent.

b. When Follow-up is Needed

i. The SFA must make at least one follow-up attempt to contact the household when the household does not adequately respond to the request for verification.

ii. The follow-up attempt may be in writing (including emails) or by telephone and the SFA must document that a contact was attempted. The SFA must inform the household that failure to provide adequate written evidence or to designate an adequate collateral contact will result in termination of benefits. The follow-up contact must attempt to obtain the missing written evidence or obtain

collateral contact information. If the collateral contact is unwilling or unable to provide the requested information, the SFA must contact the household to complete the verification process.

iii. The SFA must make a follow-up attempt when the household does not respond to the request for verification, submits insufficient or obsolete written evidence, does not designate collateral contacts, or the collateral contacts are unable or unwilling to provide the requested evidence.

iv. If after at least one follow-up attempt:

(a). the household responds and provides all needed evidence, Verification is considered complete for this household if there is no change in benefits, the household is notified that its benefit will be increased, or when the notice of adverse action is sent.

(b). the household does not respond. Verification is considered complete for this household when the notice of adverse action is sent.

(c). the SFA is unable to continue its verification activities because the household fails to provide adequate written evidence or knowledgeable collateral contacts. Verification is considered complete for this household when the notice of adverse action is sent.

K. Notice of Adverse Action

1. All households for whom benefits are to be reduced or terminated must be given 10 calendar days' written advance notice of the change. The first day of the advance notice period is the day the notice is sent. The notice must advise the household of the following:

a. the change in benefits;

b. the reasons for the change;

c. that an appeal must be filed within the 10 calendar day advance notice period to ensure continued benefits while awaiting a hearing and decision;

d. the instructions on how to appeal;

e. that the household may reapply for benefits at any time during the school year; and

f. that SNAP and FITAP households may submit an application containing household names and income information and provide written evidence of current household income and the social security numbers of adult household members.

L. Benefits During an Appeal

1. When a household appeals a reduction or termination in benefits within the 10 calendar day advance notice period, the SFA must continue to provide the benefits for which the child was originally approved until a final determination is made. The SFA may continue to claim reimbursement at that level during this period.

2. When a household does not appeal a reduction or termination in benefits during the 10 calendar day advance notice period, or the hearing official rules that benefits must be reduced, the actual reduction or termination of benefits must take place no later than 10 operating days after the 10 calendar day advance notice period, or 10 operating days after the decision by the hearing official.

M. Hearing Procedure

1. The hearing procedure in the SFA's free and reduced price policy statement must be followed. The hearing official must be an individual who was not connected with the approval or verification process. The

household may request a school conference prior to a formal hearing. Any such conference must not prejudice a later appeal.

N. Households that Reapply for Program Benefits

1. Households affected by a reduction or termination of benefits may reapply for benefits at any time during the school year. However, if benefits to a household have been terminated and the household reapplies in the same school year, the household is required to submit income documentation or proof of participation in SNAP or FITAP at the time of reapplication. These are not considered new applications.

O. Recordkeeping

1. Documentation must be kept by the SFA to demonstrate compliance with the verification requirements when SFAs are reviewed by state or federal reviewers, including documentation concerning any appeals. SFAs must maintain a description of their verification efforts. The description must include a summary of the verification efforts, including the selection process; the total number of applications on file on October 1, and the percentage or number of applications that are/will be verified by November 15. The SFA must also be able to demonstrate compliance with the confirmation review requirement and provision of a no-cost telephone number for assistance in the verification process.

2. For each application, the SFA must keep records of the source of information used to verify the application, such as wage stubs or names and titles of collateral contacts. The SFA must retain:

a. copies of all relevant correspondence between the households selected for verification and the SFA;

b. one of the following for all documentation used to verify eligibility:

i. all documents submitted by the household or reproductions of those documents; or

ii. in cases where the actual documents or photocopies cannot be kept, the verifying official must make a written record of the documents submitted by the household, including the type of document, e.g., wage stubs or letter from an employer, income shown on the document, time period of the income, and the date of the document and any changes in eligibility as a result of verification procedures, the reasons for the changes, and the date the change was made.

c. any change in eligibility as a result of verification procedures, the reason for the change and the date the household was notified, if necessary, and the date it became effective.

d. records of follow-up attempts and results.

3. SFAs should also record:

a. any additional information necessary to show the efforts made by the SFA to meet the verification requirements;

b. the title and signature of the verifying official; and

c. the criteria for replacing applications for verification.

4. When verification information is needed for coordinated review effort (CRE) purposes, the SFA must be able to provide this information for each school selected for review.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2132 (December 2001), amended LR 32:1427 (August 2006), LR 37:

§517. Direct Verification

A. General

1. Direct verification is using records from public agencies to verify income and program participation. Direct verification may be completed at the state or local level or through a joint effort at both levels.

2. SFAs are not required to conduct direct verification. However, any SFA that wishes to conduct direct verification must contact the state agency for assistance with establishing a direct verification method.

3. SFAs may conduct direct verification activities with SNAP. Direct verification must be conducted prior to contacting the household for documentation. The public agency's records may document income for any point in time between the month prior to application and the time the household is required to provide income documentation.

B. Names Submitted for Direct Verification

1. The SFA must only submit the names of school children certified for free or reduced price meal benefits listed on the application. These names are submitted to the agency administering SNAP. The names of other household members (all adults, children who are not attending school, or children not approved for free or reduced price meals) cannot be submitted for direct verification purposes.

C. Direct Verification with SNAP

1. If information obtained through direct verification of an application for free or reduced price meal benefits indicates a child is participating in SNAP, no additional verification is required. The eligibility status of the child or children listed on the application is considered verified.

D. Documentation Timeframe

1. The information used for direct verification must be the most recent information available, which is defined as data which is no older than 180 days prior to the date of the free and reduced price application. To be consistent with policy established for "regular" verification, direct verification efforts may use information from any point in time between the month prior to application and the time the SFA conducts direct verification.

E. Incomplete or Inconsistent Information from Direct Verification

1. If information provided by the public agency does not verify eligibility, the SFA must proceed with regular verification activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2132 (December 2001), amended LR 29:2026 (October 2003), LR 32:1427 (August 2006), LR 37:

Chapter 7. Meal Planning Service

§737. Extra Sales

A. Extra items may be sold only to those students who have received a complete meal. The purchase of extras must occur at the time the meal is received unless the SFA has a procedure in place to determine that a student has received a complete meal. À-la-carte meal service is prohibited for students. Extra sale items must meet component

requirements as defined by Enhanced Food-Based Menu regulations for the Child Nutrition Programs or must be an item offered on the menu that day. The only exceptions are that milkshakes, yogurt, frozen yogurt, ice cream, and ice milk (as defined by the Louisiana Sanitary Code) may be sold as extras. Full-strength juice, and milk, and bottled water (unflavored with no additives) may be sold at any time during the day to students and adults whether or not they have purchased a meal.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2151 (December 2001), amended LR 29:2029 (October 2003), LR 31:1973 (August 2005), LR 32:806 (May 2006), LR 37:

Chapter 25. Summer Food Service Program

§2502. Participation Deadline

A. Any agency wishing to participate in the SFSP must submit a signed Summer Food Service Program Agreement by April 15th. Sponsors are also required to attend the annual SFSP Workshop, conducted by the state agency. If the agency wishing to participate in the SFSP does not comply with these requirements, permission to participate in the SFSP will not be granted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR72:2201 (December 2001, LR 37:

§2503. Sponsor

A. ...

1. Organizations that may sponsor the SFSP must make available upon request documentation demonstrating financial viability, administrative capability and program accountability, and are limited to the following:

A.1.a. - B.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2201 (December 2001), amended LR 37:

§2519. Summer Food Service Program (SFSP) Appeals Procedures

A. The state agency shall notify the sponsor or food service management company in writing, of the action(s) being taken, and the grounds upon which the state agency based the action(s). The notice of action shall be sent via certified mail, return receipt requested, and by email or as otherwise established by USDA or the State Agency. The notice of action shall state that the sponsor or food service management company has the right to appeal the State's action(s) and will specify the date which the request for an appeal must be received from the sponsor or food service management company. The appellant (sponsor or food service management company) may review all information upon which the action(s) were based.

B. Any sponsor or food service management company wishing to request an appeal must submit a written request for an appeal within the timeframe specified in the notice of action.

C. The appellant may refute the charges and/or appeal proposed actions contained in the notice of action either in person or by filing written documentation with the appeals

officer. To be considered, written documentation must be submitted by the appellant within seven days of submitting the appeal, must clearly identify the state agency action being appealed, and must include a photocopy of the notice of action issued by the state agency.

D. A hearing will be held by an appeals officer in addition to, or in lieu of, a review of written information submitted by the appellant only if the appellant so specifies in the letter appealing the action. The appellant may retain legal counsel or may be represented by another person. Failure of the appellant's representative to appear at a scheduled hearing shall constitute the appellant's waiver of the right to a personal appearance before the appeals officer, unless the appeals officer agrees to reschedule the hearing. A representative of the state agency shall be allowed to attend the hearing to respond to the appellant's testimony and written information and to answer questions from the appeals officer.

E. If the appellant has requested a hearing, the appellant and the state agency shall be notified of the date, time and place of the hearing.

F. The appeals officer is independent of the original decision-making process.

G. The appeals officer will make a determination based on information provided by the state agency and the appellant, and on Program regulations.

H. The state agency's action will remain in effect during the appeal process. However, participating sponsors and sites may continue to operate the Program during an appeal of termination, and if the appeal results in overturning the state agency's decision, reimbursement shall be paid for meals served during the appeal process. However, such continued Program operation shall not be allowed if the state agency's action is based on imminent dangers to the health or welfare of children. If the sponsor or site has been terminated for this reason, the state agency shall so specify in its notice of action.

I. The determination by the state appeals officer is the final administrative determination to be afforded to the appellant.

J. Appealable actions include: A denial of an application for participation; a denial of a sponsor's request for an advance payment; a denial of a sponsor's claim for reimbursement [except for late submission under 7 CFR 225.9(d)(5)]; a state agency's refusal to forward to the United States Department of Agriculture, Food and Nutrition Services (FNS) office an exception request by the sponsor for payment of a late claim or a request for an upward adjustment to a claim; a claim against a sponsor for remittance of a payment; the termination of the sponsor or a site; a denial of a sponsor's application for a site; a denial of a food service management company's application for registration; or the revocation of a food service management company's registration. Appeals shall not be allowed on decisions made by FNS with respect to late claims or upward adjustments under 7 CFR 225.9(d)(5). For more information refer to 7 CFR 225.13 Appeal procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2203 (December 2001), amended LR 37:

§2521. Information

A. For more information, refer to the USDA Summer Food Service Program for Children, Administrative Guidance for Sponsors or visit USDA's web site at www.usda.gov.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2203 (December 2001), amended LR 37:

Chapter 29. Child and Adult Care Food Program **§2911. Audit Requirements for the Child and Adult Care Food Program**

A. ...

B. Reporting to the Louisiana Department of Education. If a participating sponsoring institution's federal expenditures are less than \$500,000 in a fiscal year, that sponsoring institution shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

1. ...

C. While a sponsoring institution that does not meet the annual federal expenditure threshold of \$500,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:191-199.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1737 (August 2002), amended LR 29:2034 (October 2003), LR 37:

Chapter 33. Financial Management and Accounting for Child and Adult Care Food Program Family Day Care Homes (FDCH)

§3313. Audit/Review

A. ...

1. Audit Requirement. A sponsor that expends \$500,000 or more of federal funds in a fiscal year must have an audit conducted for that year. The Louisiana Revised Statutes contain additional audit requirements for institutions that receive state or local funds.

2. Reporting to the Louisiana Department of Education. If a participating sponsor's federal expenditures are less than \$500,000 in a fiscal year, that sponsor shall annually report this information to the Louisiana Department of Education, to ensure compliance with federal audit requirements.

a. ...

b. While a sponsoring institution that does not meet the annual federal expenditure threshold of \$500,000 is not required to have an audit of such funds, records must be available for review or audit by appropriate officials of any federal, state, or local government agency.

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education LR 27:2213 (December 2001), amended LR 28:1738 (August 2002), LR 29:2035 (October 2003), LR 37:

§3403. Service

A. The service of the notice of proposed action, request for appeal and decision shall be made personally or by

official U.S. postal certified mail, return receipt requested, or by regular U.S. mail, or email or otherwise established by USDA or the signed Child Nutrition Program Agreement between the institution and the State Agency. Refer to the glossary for specific definition of notice.

B. - C.1. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1738 (August 2002), amended LR 29:2035 (October 2003), LR 37:

Chapter 34. National School Lunch Program and Child and Adult Care

§3405. Notice of Proposed Action

A. The state agency shall notify the institution, in writing, of the actions being taken through a notice of proposed action. This notice shall contain the following information:

1. ...

2. the specific amount of the fiscal sanction assessed against the institution, if any and/or the state action being taken;

3. a statement specifying what action the institution must take to correct the violation(s) to avoid further proceedings if any;

A.4. - C. ...

1. the effective date of suspension

2. the date that the institution's written request for a suspension review must be received by the hearing along with written documentation opposing the proposed suspension.

D. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2035 (October 2003), LR 37:

§3407. Request for Appeal

A. Institutions wishing to appeal proposed actions (except suspension of CACFP participation) shall serve a written request for appeal upon the state agency not later than the date specified in the notice of proposed action.

B. ...

1. a listing of what specific violations or state agency action(s) set forth in the notice of proposed action are being appealed together with a short and plain statement of each contested issue of fact or law concerning each violation or state agency action;

2. - 2.b....

3. a statement as to the relief or remedy the institution seeks from the appeal.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), amended LR 29:2035 (October 2003), LR 37:

§3410. Notice and Time of Hearing

A. If a hearing (not suspension review) is requested in writing, the hearing officer shall schedule the hearing and shall notify the institution and the state agency in writing of the time, date, and place of the hearing.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 7 CFR 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1739 (August 2002), repromulgated LR 28:1950 (September 2002), amended LR 29:2036 (October 2003), LR 37:

§3415. Decision, Judicial Review, Records

A. The hearing officer shall render a decision which shall include findings of fact, conclusions, and a statement as to the reasons for the decision. The decision shall be served on the institution and the state agency by the hearing officer and shall constitute the final state agency action for purposes of judicial or other review. The decision of the hearing officer can be appealed as provided by law.

B. The appeal record, where the institution chooses to submit written information to dispute the state agency action taken against it, shall consist of that written information together with such written information as the state agency chooses to likewise submit to support its notice of proposed action and the decision thereon.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1740 (August 2002), amended LR 29:2037 (October 2003), LR 37:

§3417. Hearing Conduct and Decorum

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1740 (August 2002), repealed LR 37:

§3419. Decision, Judicial Review, Records

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 7 CFR, 210-245.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 28:1740 (August 2002), amended LR 29:2037 (October 2003), repealed LR 37:

Chapter 35. Glossary

§3501. Definitions/Abbreviations

* * *

Notice—notice means a letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email, that describes an action proposed or taken by a state agency or the United States Department of Agriculture, Food and Nutrition Service with regard to an institution's Program reimbursement or participation. Notice also means a letter sent by certified mail, return receipt (or the equivalent private delivery service), by facsimile, or by email, that describes an action proposed or taken by a sponsoring organization with regard to a day care home's participation. The notice must specify the action being proposed or taken and the basis for the action, and is considered to be received by the institution or day care home when it is delivered, sent by facsimile, or by email. If the notice is undeliverable, it is considered to be received by the institution, responsible principal or responsible individual, or day care home five days after being sent to the addressee's last known mailing address, facsimile number, or email address.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(5); R.S. 17:10; R.S. 17:82; R.S. 17:191-199. R.S. 1792.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 27:2220 (December 2001), amended LR: 29:2037 (October 2003), LR 37:

Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a Rule in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., December 9, 2010, to Nina A. Ford, State Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Jeanette Vosburg
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1196—Louisiana Food and Nutrition Programs, Policies of Operation

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The policy revisions will consolidate necessary technical changes to Child Nutrition Programs. The Board of Elementary and Secondary Education estimated cost for printing this policy change in the Louisiana Register is approximately \$9,248.00. The funds are currently budgeted for this purpose.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There will be no estimated effect on revenue collection of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
There will be no costs or economic benefits to directly affect persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There will be no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1010#071

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Student Financial Assistance Commission Office of Student Financial Assistance

Scholarship/Grant Programs—Scholarship/Grant
Programs—Applications, Federal Grant Aid and ACT Test
(LAC 28:IV.505)

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (LSA-R.S. 17:3021-3025, LSA-R.S. 3041.10-3041.15, LSA-R.S. 17:3042.1, LSA-R.S. 17:3048.1, LSA-R.S. 17:3048.5 and LSA-R.S. 17:3048.6).

This rulemaking revises the TOPS application deadline to allow payment of a TOPS Award beginning with the first semester, quarter or term of first-time, full-time enrollment for those students whose application for TOPS is received on or before July 1 (or no more than 120 days later with a reduction in award) immediately following the first anniversary of the student's high school graduation.

The full text of this Notice of Intent can be found in the Emergency Rule section of this *Louisiana Register*.

Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

Small Business Statement

The proposed Rule will have no adverse impact on small businesses as described in R.S. 49:965.2 et seq. (SG11123NI)

Public Comments

Interested persons may submit written comments on the proposed changes (SG11123NI) until 4:30 p.m., November 9, 2010, to Melanie Amrhein, Executive Director, Office of Student Financial Assistance, P.O. Box 91202, Baton Rouge, LA 70821-9202.

George Badge Eldredge
General Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Scholarship/Grant Programs Scholarship/Grant Programs—Applications, Federal Grant Aid and ACT Test

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Currently, about 2% of 2010 Louisiana high school graduates eligible for a TOPS award for the 2010-2011 Academic Year did not file their TOPS application timely and would have had their first TOPS award payment delayed until the 2011-2012 Academic Year. Using 2009-2010 data, it is estimated that 287 of these students would accept a TOPS Opportunity Award or higher (academic award), and 64 students would accept a TOPS Tech award (technical award).

The payment delay that occurs under current rules does not reduce a student's total TOPS eligibility. The payment delay merely shifts the cost to the TOPS program to a later year. The rule change will shift costs from future years to earlier. As such, the proposed rules result in payment of approximately \$1.1 million in TOPS awards in Fiscal Year 2010-11 that

would have been paid in Fiscal Year 2011-12 based on current rules.

Under current rules, the total costs for the students whose payments are delayed until the 2011-2012 Academic year would be \$5.4 million over four years based on the maximum 10 percent tuition increase per year authorized by the LA GRAD Act. The proposed rules move payments to prior years, resulting in a four year cost of \$4.9 million, or a four year savings of approximately \$0.5 million.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Revenue collections of state and local governments will not be affected by the proposed changes.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed change does not impact a student's TOPS eligibility, just the timing of TOPS award payments and thus the financial impact of receiving the award in the first year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Financial aid provided by TOPS makes it easier for students to seek post-secondary education. These changes eliminate the delay in payment of a TOPS award, easing any financial burden caused by the delay. Any increase in the number of students attending post-secondary education will result in an increase in the number of educated/trained workers in the state and that will have a positive impact on competition and employment.

George Badge Eldredge
General Counsel
1010#017

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary

Greenhouse Gas (GHG) Tailoring
(LAC 33:III.502 and 509)(AQ314ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.502.A and 509.B (AQ314ft).

This Rule is identical to federal regulations found in June 3, 2010, FR 75, Part 106, pages 31606-31607, which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3985 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule. This Rule will be promulgated in accordance with the procedures in R.S. 49:953(F)(3) and (4).

On June 3, 2010, the Environmental Protection Agency (EPA) promulgated a Rule entitled "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule" (Tailoring Rule) (75 FR 31514). The final Rule establishes a separate major source threshold and Prevention of Significant Deterioration (PSD) significance level for greenhouse gases (GHGs) in the form of carbon dioxide equivalents (CO₂e). This action will amend LAC 33:III.502.A and 509.B to adopt the federal thresholds.

On April 2, 2010, EPA published a final Rule entitled "Reconsideration of Interpretation of Regulations That Determine Pollutants Covered by Clean Air Act Permitting Programs" (75 FR 17004). Under the terms of this action, GHGs become "subject to regulation" and Title V and PSD program requirements begin to apply on January 2, 2011.

LAC 33:III.509.B currently defines "major stationary source" and "significant," in relevant part, as follows:

Major Stationary Source—

a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under this Section;

b. or stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under this Section;

Significant—

b. in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that Subparagraph a of this definition does not list, any emissions rate;

Consequently, in the absence of thresholds specifically tailored to GHGs, the Title V and PSD major source threshold would be 100 or 250 tons per year (depending on the source category), and any increase in GHG emissions resulting from a physical change or change in the method of operation at a major source would trigger PSD review.

According to the Tailoring Rule, this would greatly increase the number of required permits, impose undue costs on small sources, overwhelm the resources of permitting authorities, and severely impair the functioning of the programs (75 FR 31514). The basis and rationale for this Rule is to adopt the federal major stationary source threshold and PSD significance level for GHGs. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

Chapter 5. Permit Procedures

§502. Definitions

A. Except where specifically provided in another Section herein, the following definitions apply to terms used in this Chapter. Except as provided in this Chapter, terms used in this Chapter retain the definition provided them in LAC 33:III.111 or the Louisiana Air Quality regulations. Wherever provisions related to the Acid Rain Program are concerned, the definitions provided in 40 CFR Part 72 shall apply.

CO₂ Equivalent Emissions (CO₂e)—the emitted amount of *greenhouse gases (GHGs)* computed by multiplying the mass amount of emissions for each of the six *GHGs* by its associated global warming potential, published in Table A-1 to Subpart A of 40 CFR Part 98—Global Warming Potentials, and summing the resultant value for each (see *greenhouse gases (GHGs)*).

Greenhouse Gases (GHGs)—an air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Major Source—for the purposes of determining the applicability of 40 CFR Part 70 or of LAC 33:III.507, any stationary source or any group of stationary sources that are located on one or more contiguous or adjacent properties, that are under common control of the same person (or persons under common control), and that are described in Subparagraph a, b, c, or d of this definition:

a. - a.ii. ...

b. any stationary source that directly emits or has the potential to emit 100 tpy or more of any regulated air pollutant (except for GHGs) excluding any air pollutant regulated solely under Section 112(r) of the Clean Air Act. Fugitive emissions of a stationary source shall be considered in determining whether it is a major source under this Subparagraph:

i. - ii. ...

c. any major stationary source as defined in Part D (Nonattainment) of Title I of the Clean Air Act, including any source defined as a major stationary source under LAC 33:III.504.K;

d. as of July 1, 2011, any stationary source that directly emits or has the potential to emit 100,000 tpy *CO₂e*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:1950 (September 2002), amended by the Office of the Secretary, Legal Affairs Division, LR 37:

§509. Prevention of Significant Deterioration

A. - A.5. ...

B. Definitions. For the purpose of this Section, the terms below shall have the meaning specified herein as follows.

CO₂ Equivalent Emissions (CO₂e)—the emitted amount of greenhouse gases (GHGs) computed by multiplying the mass amount of emissions for each of the six greenhouse gases in the pollutant GHGs by the gas's associated global warming potential published in Table A-1 to Subpart A of 40 CFR, Part 98—Global Warming Potentials, and summing the resultant value for each.

Greenhouse Gases (GHGs)—an air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Major Stationary Source—

a. any of the stationary sources of air pollutants listed in Table A of this definition that emits, or has the potential to emit, 100 tons per year or more of any pollutant (except for GHGs) subject to regulation under this Section;

b. for stationary source categories other than those listed in Table A of this definition, any stationary source that emits, or has the potential to emit, 250 tons per year or more

of any air pollutant (except for GHGs) subject to regulation under this Section;

c. as of July 1, 2011, any stationary source which emits, or has the potential to emit, at least 100,000 tons per year CO_2e ; or

d. any physical change that would occur at a source not otherwise qualifying as a major stationary source under Subparagraphs a, b, or c of this definition if the change would constitute a major source by itself;

e. a major source that is major for volatile organic compounds or nitrogen oxides shall be considered major for ozone;

f. the fugitive emissions of a stationary source shall not be included in determining for any of the purposes of this Section whether it is a *major stationary source*, unless the source is listed in Table A of this definition or, as of August 7, 1980, is being regulated under Section 111 or 112 of the Clean Air Act.

Significant—

a. in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant	Emission Rate
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy of particulate emissions
	15 tpy of PM_{10} emissions
Ozone	40 tpy of volatile organic compounds or nitrogen oxides
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H_2S)	10 tpy
Total reduced sulfur (including H_2S)	10 tpy
Reduced sulfur compounds (including H_2S)	10 tpy
Municipal waste combustor organics ¹	0.0000035 tpy
Municipal waste combustor metals ²	15 tpy
Municipal waste combustor acid gases ³	40 tpy
Municipal solid waste landfills emissions ⁴	50 tpy
<i>GHGs</i> (as CO_2e) ⁵	75,000 tpy

Pollutant	Emission Rate
¹	Measured as total tetra- through octa-chlorinated dibenzo-p-dioxins and dibenzofurans.
²	Measured as particulate matter.
³	Measured as sulfur dioxide and hydrogen chloride.
⁴	Measured as nonmethane organic compounds.
⁵	Effective January 2, 2011.

C. - AA.15.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 14:348 (June 1988), LR 16:613 (July 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:478 (May 1991), LR 21:170 (February 1995), LR 22:339 (May 1996), LR 23:1677 (December 1997), LR 24:654 (April 1998), LR 24:1284 (July 1998), repromulgated LR 25:259 (February 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2447 (November 2000), LR 27:2234 (December 2001), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2437 (October 2005), LR 31:3135, 3156 (December 2005), LR 32:1600 (September 2006), LR 32:1843 (October 2006), LR 36:

Family Impact Statements

This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Public Comments

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ314ft. Such comments must be received no later than November 24, 2010, at 4:30 p.m., and should be sent to Donald Trahan, Attorney Supervisor, Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-4068 or by e-mail to donald.trahan@la.gov. The comment period for this Rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ314ft. This regulation is available on the Internet at www.deq.louisiana.gov/portal/tabid/1669/default.aspx.

Public Hearing

A public hearing will be held on November 24, 2010, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Donald Trahan at the address given below or at (225) 219-3985. Two hours of free parking are allowed in the Galvez Garage with a validated parking ticket.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway

546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 201 Evans Road, Bldg. 4, Suite 420, New Orleans, LA 70123.

Herman Robinson, CPM
Executive Counsel

1010#010

NOTICE OF INTENT

Office of the Governor Board of Examiners of Certified Shorthand Court Reporters

General Requirements for Certified Shorthand Reporters
(LAC 46:XXI.101, 105, 317, 501,
511, 609, 901, 1103, and 1301)

In accordance with the Administrative Procedures Act, R. S. 49:950 et seq., notice is hereby given that the Louisiana Board of Examiners of Certified Shorthand Reporters proposes to adopt and amend rules as required under ACT 700 of the 2010 Regular Legislative Session. The following rules will be adopted or amended: Certification, Grandfathering Certification, Examinations, Certificates, Methods of Reporting, Continuing Education, Fees, Court Reporting Procedures, and Code of Ethics.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XXI. Certified Shorthand Reporters

Chapter 1. Certification

§101. Application for Certification

A. ...

B. An application for a certified digital reporter certificate will be processed according to the following procedure. The board staff will review each application for completeness and will notify the applicant in writing if the application is incomplete or inadequate. The board may request additional information from an applicant at any time during the application process. Each application must be accompanied by the fee to be paid upon issuance and renewal of a certificate as stated in Chapter 9 of these rules. A certified digital reporter certificate authorizes the certificate holder to practice court reporting only as an official or deputy official court reporter performing duties for a court of record. The holder of a CDR certificate is prohibited from engaging in freelance or general reporting. This certificate is only portable to another court if the applicant holds the Electronic Reporters and Transcribers certificate from the American Association of Electronic Reporters and Transcribers (AAERT) or any other national or state recognized association or organization which is approved by the board and authorized or licensed to provide education and certification for professionals engaged in digital reporting and transcribing a verbatim record of oral court proceedings, and which is approved by the judge or court employing the services of the court reporter, or any official or deputy official reporter who has satisfied equivalent testing and certification requirements established

by the board. If the certificate is allowed to lapse, the seal(s) shall be returned to the board. Each holder of a CDR certificate is subject to the regulatory authority of the board and must satisfy the requirements applicable to court reporters, such as compliance with continuing education requirements, and adherence to the standards of professional conduct.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and 2556.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:530 (August 1988), LR16:393 (May 1990), LR 19:1537 (December 1993), LR 37:

§105. Grandfathering Certification

A. On or before December 31, 2010, the board will accept applications for the Certificate of Certified Digital Reporter from any person age 18 years or older who submits due proof that the person is employed as an official or deputy official court reporter by a Louisiana court of record and that the person has utilized electronic, audio, or digital recording equipment as a method of official court reporting. The board will accept as due proof of employment the board approved CDR application and judge or court affidavit. The affidavit shall be executed by the judicial administrator or judge of that court of record attesting, that the applicant is employed by that court as of the date of execution. The board will receive and consider applications for a CDR certificate based on grandfathering at any time on or before December 31, 2010. The board will not consider or approve applications for issuance of a CDR certificate by official or deputy official court reporters employed by the following courts: Fifteenth, Sixteenth, Seventeenth, Nineteenth, Thirty-Second, Thirty-Fourth, and Fortieth Judicial District Courts, the Orleans Parish Civil District Court, the Orleans Parish Criminal District Court, the Jefferson Parish First and Second Parish Courts, the New Orleans First and Second City Courts, the New Orleans Municipal and Traffic Courts, and on and after the effective date of its creation, the Forty-First Judicial District Court. Following submission of satisfactory proof in accordance with the foregoing requirements, the board will approve issuance of a CDR certificate.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2554 and 2556.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 37:

Chapter 3. Examinations

§317. National Examinations

A. ...

B. The board will accept as an examination the Electronic Reporter and Transcriber certificate from the American Association of Electronic Reporters and Transcribers (AAERT). A certificate holder under this Chapter is prohibited from engaging in freelance or general reporting.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2554 and 2556.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified

Shorthand Reporters, LR 14:531 (August 1988), LR 21:931 (September 1995), LR 27:184 (February 2001), LR 37:

Chapter 5. Certificates

§501. Expiration of Certificate

A. ...

B. The certified digital reporter certificate is immediately extinguished by operation of law upon termination of the certificate holder's employment by that court if he or she was grandfathered in as a CDR. A CDR shall immediately notify the board of any change in employment status and shall surrender the certificate upon termination of employment by that court of record. If a grandfathered CDR certificate lapses, then the certificate holder must begin anew by obtaining the Electronic Reporter and Transcriber certificate from the American Association of Electronic Reporters and Transcribers (AAERT).

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:678 (October 1983), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:531 (August 1988), LR 19:1538 (December 1993), LR 37:

§511. Methods of Reporting

A. Each reporter shall be certified in one of the following four five methods of reporting.

1. - 4. ...

5. Digital. A certified digital reporter is anyone who converts an electronic, audio, or digital recording into a verbatim transcript of any oral court proceeding, is prohibited from freelance or general reporting, is restricted to duties as an official or deputy official court reporter, and has been certified to engage in the practice of digital reporting as a certified electronic reporter and transcriber by the American Association of Electronic Reporters and Transcribers, or anyone who has submitted due proof on or before December 31, 2010 that the person is employed as an official or deputy official court reporter by a Louisiana court of record on or before December 31, 2010 and that the person has performed the duties of an official or deputy official court reporter utilizing electronic, audio, or digital recording equipment as a method of official court reporting.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554, 2555, 2556 and R.S. 37:2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 20:997 (September 1994), LR 37:

Chapter 6. Continuing Education

§609. Continuing Education Guidelines

A. ...

1. The board may approve seminars and workshops sponsored by the National Court Reporters Association (NCRA) or, the National Verbatim Reporters Association (NVRA) or the American Association of Electronic Reporters and Transcribers (AAERT) at national, regional, state, or local meetings, by public institutions of higher learning, and by judicial organizations, including the following subjects:

A.1.a. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 17:33 (January 1991), amended LR 19:1539 (December 1993), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 33:2420 (November 2007), LR 37:

Chapter 9. Fees

§901. Fees

A. - A.1. ...

2. The fee to be paid upon the issuance and renewal of the a certificate of registration is \$125 plus seal fee(s).

3. The fee to be paid for a seal is \$20. A minimum requirement of one seal must be purchased upon the issuance or renewal of a certificate. The maximum number of seals that may be purchased is three per certificate holder.

A.4. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:2554 and 2558.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Examiners of Certified Shorthand Reporters, LR 9:680 (October 1983), amended LR 10:279 (April 1984), amended by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 14:531 (August 1988), LR 17:34 (January 1991), LR 17:578 (June 1991), LR 19:1541 (December 1993), amended by the Office of the Governor, Board of Examiners of Shorthand Reporters, LR 34:434 (March 2008), LR 36: 1781 (August 2010), LR 37:

Chapter 11. Court Reporting Procedures

§1103. Certification of Transcript

A. - B. ...

C. Each certified digital reporter (CDR) shall attest to the accuracy of every transcript prepared by that reporter by dating, signing, and sealing a certification page containing substantially the following language.

This certificate is valid only for a transcript accompanied by my original signature and original seal on this page.

I, [reporter's name]. Certified Digital Reporter in and for the State of Louisiana, employed as an official or deputy official court reporter by the [court name] for the State of Louisiana, as the officer before whom this testimony was taken, do hereby certify that this testimony was reported by me in the digital reporting method, was prepared and transcribed by me or under my direction and supervision, and is a true and correct transcript to the best of my ability and understanding and that I am not related to counsel or to the parties herein nor am I otherwise interested in the outcome of this matter.

D. No certified digital reporter shall execute the foregoing certification without having first reviewed and approved the accuracy of the transcript to which such certification is attached.

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2554 and R. S. 37:2557.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 21:21 (January 1995), LR 37:

Chapter 13. Code of Ethics

§1301. Guidelines for Professional Practice

A. The mandatory Code of Ethics defines the ethical relationship the public, the bench, and the bar have a right to expect from a certificate holder. It sets out the required conduct of the certificate holder when dealing with the user of reporting services, and acquaints the user, as well as the certificate holder, with guidelines established for professional behavior.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R. S. 37:2553(A.), 37:2554 and 37:2557(A).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Examiners of Certified Shorthand Reporters, LR 25:1215 (July 1999), amended by the Office of the Governor, Board of Examiners of Certified Shorthand Reporters, LR 33:2421 (November 2007), LR 37:

Family Impact Statement

The proposed Rule changes have no known impact on family formation, stability, and autonomy as described in R. S. 49:972.

Public Comments

Interested persons may submit written comments on the proposed changes until 4:00 p.m., November 9, 2010, to Judge Robert M. Murphy, Chair of the Louisiana Board of Examiners of Certified Shorthand Reporters P.O. Box 1840, Walker, LA 70785-1840.

Judge Robert M. Murphy
Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: General Requirements for Certified Shorthand Reporters

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will result in an indeterminable but likely insignificant increase in expenditures for the La. Board of Examiners of Certified Shorthand Reporters. These costs include copying and mailing application packets, printing of certificates and identification cards, office supplies, postage and those one-time costs associated with the publication and dissemination of the rules.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rules will result in an increase in revenue collected annually by the La. Board of Examiners of Certified Shorthand Reporters and will ultimately depend upon the number of "grandfathered" CDR applications received. The amount of revenue anticipated annually is \$55,540 that includes 400 CDR certificates and seals. This amount includes the current licensing fee of \$125 plus the net seal fee of \$13.85 multiplied by an estimated 400 certificates issued.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will result in an annual licensing fee as previously described as well as an estimated seminar fee of \$200 which will be required on a semiannual basis for continuing education.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment.

Judge Robert M. Murphy
Chair
1010#057

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Office of the Governor Commission on Law Enforcement and Administration of Criminal Justice

Peace Officer Training (LAC 22:III.Chapter 47)

In accordance with the provision of R.S. 40:2401, et seq., the Peace Officer Standards and Training Act, and R.S. 40:905 et seq., which is the Administrative Procedure Act, the Peace Officer Standards and Training Council hereby gives notice of its intent to promulgate rules and regulations relative to the training of peace officers.

Title 22

CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4705. Registration

A. Registration may be granted in lieu of certification to those peace officers who:

1. were hired prior to January 1, 1986;
2. did not attend POST-certified basic training; and
3. are currently performing the duties of a peace officer.

B. *Registration* simply means that the officer is registered with POST and he/she is not required to comply with the mandates for basic POST certification.

C. Officers hired prior to January 1, 1986, may be eligible to receive POST registration by completing the following requirements.

1. Submit a letter to the POST Council from the agency head requesting the officer be registered with the state.

2. Supporting documentation shall accompany the letter regarding initial employment date along with a chronological narrative of the officer's law enforcement service on a form prescribed by POST.

D. Registered officers who are "grandfathered in" are exempt from the basic training course requirement but must comply with all other POST mandates to maintain grandfathership.

E. Registration/grandfatherhood shall become invalid if officer experiences a five year or more break in law enforcement service and has less than five years full time experience.

F. Officers, who were hired prior to January 1, 1986, and who experience a five year or more break in law enforcement, and had at least five years of full-time service, can reinstate their grandfatherhood by successfully completing:

1. the firearms section of the Louisiana Law Enforcement Basic Training Manual;

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Corrupt and Prohibited Practices
(LAC 35:I.1727 and 1743)

2. the legal aspects of the Louisiana Law Enforcement Basic Training Manual; and

3. the necessary requirements for POST registration in accordance with the provisions of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999), LR 31:3159 (December 2005), LR 37:

§4709. Interruption of Full-Time Service

A. ...

1. at least a minimum of five years experience, then the officer must meet the requirement of §4705.F; or

A.2. - B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999), LR 31:3159 (December 2005), LR 34:1927 (September 2008), LR 37:

Family Impact Statement

An analysis of the proposed Rule shows that it will have no impact on the family as described in R.S. 49.972, nor any impact on small business as defined by Act 820 of 2008.

Public Comments

Interested persons may submit written comments on this proposed Rule no later than November 10, 2010 at 5 p.m. to Bob Wertz, Peace Officer Standards and Training Council, Louisiana Commission on Law Enforcement, 1885 Wooddale Boulevard, Room 1230, Baton Rouge, LA 70806.

Mr. Joey Watson
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Peace Officer Training**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed rule formally puts into place an existing POST Council policy and will not have any impact on expenditures for state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule will not increase revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change clarifies the procedure for a "grandfathered" peace officer to be registered with the POST Council as a result of Act 116 of 2008. The rule also provides evidence for each grandfathered peace officer to validate their qualification for state supplemental pay.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no effect on competition or employment in the public or private sector as a result of this proposed amendment.

Joseph M. Watson
Executive Director
1010#049

Robert E. Hosse
Staff Director
Legislative Fiscal Office

The Louisiana State Racing Commission hereby gives notice that it intends to amend the following Rule(s). In March 2009, the Racing Commission amended Section 1721 of Title 35, Part I of the Louisiana Administrative Code which addressed the use of modern therapeutic medications in race horses. Notably, the Rule was amended to restrict the use of exogenous anabolic steroids to align with national racing standards and in order for Louisiana to maintain its' eligibility to hold stakes races recognized by the American Graded States Committee, National Thoroughbred Owners and Breeders Association.

Following increased regulation of the use of steroids in race horses, there is an emerging trend toward the use of products containing beta-adrenergic agonists drugs, such as ractopamine which is administered as "Paylean." Beta-adrenergic agonists drugs have a known potential to affect performance, and as such, the use of such agents has been the object of regulation for some time. Many beta-adrenergic agonists have the ability to partition nutrient supply to increase muscle growth and decrease fat deposition producing a similar effect as steroids.

Paylean, a beta-adrenergic agonists, is a common ingredient in certain feed products approved by the Federal Food and Drug Administration for use in other animals, such as swine. As such, it is readily available in feed stores. Paylean is not approved for use in horses, and the use of beta-adrenergic agonists, like Paylean, in race horses has long been prohibited under the Rules of Racing.

The proposed amendments are designed to achieve two specific objectives: (1) prevent and prohibit the possession of feed and other products containing Paylean at racetracks licensed by the commission to protect against the use of products which contain drugs with a known potential to effect the performance of a race horse; (2) protect horses stabled at racetracks from the inadvertent exposure or ingestion of products which are strictly prohibited by the Rules of Racing.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 17. Corrupt and Prohibited Practices

§1727. Drugs Which Affect Performance; Guarding Horse

A. No person shall administer, or cause or knowingly permit to be administered, or connive at the administration of any drug not permitted by Chapter 15 to any horse to be entered or entered for a race.

B. No person shall feed, or cause or knowingly permit to be fed, or connive in any manner to feed products which contain any drug not permitted by Chapter 15 to a horse to be entered or entered for a race.

C. Every owner, trainer or groom must guard, or cause to be guarded, each horse owned, trained or attended by him in

such manner as to prevent any person or persons from administering to the horse, by any method, or feeding to a horse products which contain any drug, not permitted by Chapter 15.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), LR 4:287 (August 1978), LR 12:11 (January 1986), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 37:

§1743. Possession of Drugs, Syringes or Needles

A. No person shall have in his possession, within the confines of a race track or within its stables, buildings, sheds or grounds, or within an auxiliary (offtrack) stable area, where horses are lodged or kept which are eligible to race over a race track of any association holding a race meeting, any prohibited drugs, hypodermic syringes or hypodermic needles or similar instruments which may be used for injection. Anything herein to the contrary notwithstanding, a licensed veterinarian may have in his possession such drugs, instruments or appliances, etc., as required in the practice of general veterinary medicine.

B. No person shall have in his possession, within the confines of a race track or within its stables, buildings, sheds or grounds, or within an auxiliary (offtrack) stable area, where horses are lodged or kept which are eligible to race over a race track of any association holding a race meeting, any feed products containing drugs not otherwise and expressly approved for use in race horses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, promulgated by the Department of Commerce, Racing Commission, LR 2:449 (December 1976), amended LR 3:45 (January 1977), LR 4:288 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 16:765 (September 1990), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 37:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Corrupt and Prohibited Practices

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
The proposed rule change will have no impact on costs (savings) to state or local governmental units.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
The proposed rule change will have no impact on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
The proposed rule changes will have a positive long term economic benefit to horse owners and trainers in Louisiana. The costs associated with horses breaking down due to the use of prohibited substances will continue to decrease by disallowing feed products containing beta-adrenergic agonists drugs. Feed products containing these drugs increase muscle growth and decrease fat deposition producing a similar effect as anabolic steroids.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed rules change will ensure that only those horses that are drug free are allowed to compete in racing. It would also ensure a safe and healthy environment for all horses stabled at the track.

Charles A. Gardiner III
Executive Director
1010#018

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Division of Administration
Racing Commission**

Mandatory Health Screening (LAC 35:I.1304)

The Louisiana State Racing Commission hereby gives notice that it intends to amend the following Rule. The Rule currently is captioned "Coggins Test" and provides that no horse shall be allowed to race in Louisiana unless it has been tested for equine infectious anemia via "Coggins" test taken within 12 months of the date of the race in question, with negative results. The proposed amendment amends the caption to read "Mandatory Health Screening" and mandates screening for Equine Piroplasmiasis. Although equine infectious anemia poses a serious threat to the racing population, the population is currently at greater risk for Equine Piroplasmiasis which is spreading throughout the United States within the racing population. A horse testing positive for equine infectious anemia via "Coggins" or for Equine Piroplasmiasis is unfit to race and poses an imminent threat to healthy race horses.

**Title 35
HORSE RACING**

Part I. General Provisions

Chapter 13. Health Rules

§1304. Mandatory Health Screening

A. ...

B. No horse shall be allowed to enter the confines of a racetrack of any association holding a license to conduct a race meeting or race in Louisiana unless it has had an Equine Piroplasmosis (EP) test taken within 12 months of the date of entry upon the racetrack and/or race, with a negative result for Theileria equi and Babesia caballi. Record of the negative test shall be attached to registration papers of the horse upon entry to the racetrack. The trainer of the horse is responsible for insuring that a negative Piroplasmosis test result is in the racing secretary's office as required by this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141 and R.S. 4:142.

HISTORICAL NOTE: Promulgated by Department of Commerce, Racing Commission, LR 14:226 (April 1988), amended by the Office of the Governor, Division of Administration, Racing Commission, LR 37:

Family Impact Statement

This proposed Rule has no known impact on family formation, stability, and/or autonomy as described in R.S. 49:972.

Public Comments

The domicile office of the Louisiana State Racing Commission is open from 8 a.m. to 4:30 p.m., and interested parties may contact Charles A. Gardiner III, Executive Director, or Larry Munster, Assistant Executive Director, at (504) 483-4000 (holidays and weekends excluded), or by fax (504) 483-4898, for more information. All interested persons may submit written comments relative to this proposed Rule for a period up to 20 days exclusive of weekends and state holidays from the date of this publication to 320 North Carrollton Avenue, Suite 2-B, New Orleans, LA 70119-5100.

Charles A. Gardiner III
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Mandatory Health Screening**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed rule change will have no impact on costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no impact on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will result in horse owners expending \$75 per blood test for horses entering the grounds of state racetracks. This blood test will ultimately benefit the horse owners who will be able to easily detect the protozoan parasite that is highly contagious to the horse population and should result in reduced costs related to quarantining and euthanizing horses which contract this disease. Mandatory screening has been instituted in other racing jurisdictions (Oklahoma, New Mexico, Texas, Colorado, Florida, and Iowa).

An outbreak of such disease would likely result in a suspension of races and/or race days.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will ensure that only those horses that are free of this contagious disease are allowed to compete. It would also ensure a safe and healthy environment for all horses stabled at the track.

Charles A. Gardiner III
Executive Director
1010#081

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Real Estate Appraisers Board**

Appraisers (LAC 46:LXVII. Chapters 103-105)

Under the authority of the Louisiana Real Estate Appraisers Law, R.S. 37:3391 et seq., and in accordance with the provisions of the Louisiana Administrative Procedure Act, R.S. 49:950, et seq., notice is hereby given that the Louisiana Real Estate Appraisers Board has initiated procedures to amend LAC 46:LXVII.Chapters 103-105.

With the exception of Sections 10311 and 10313, the proposed amendments can all be considered housekeeping in nature, in that they serve to organize, clarify, or better explain the existing rule requirements. Sections 10311 and 10313 are proposed for amendment based on guidelines from the federal Appraiser Qualification Board (AQB). These Sections are relative to earned experience credits, which have been converted by the proposed action from a "point" system to an "hours" system.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LXVII. Real Estate

Subpart 2. Appraisers

Chapter 103. License Requirements

§10301. Applications

A. - D. ...

E. A nonresident real property appraiser licensed in another state, commonwealth, or territory shall submit a completed application form and fees prescribed by the board, including an irrevocable consent to service of process in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1332 (June 2005), amended LR 37:

§10303. Examination

A. ...

B. Any applicant who fails an examination may apply to retake the examination by submitting a copy of the fail notice and a new examination processing fee to the board. After one year, the applicant shall be required to submit a new application and remit all prescribed fees to be eligible for the licensing examination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1332 (June 2005), amended LR 37:

§10307. Education Requirements

A. - B. ...

C. A certified residential or certified general appraiser shall complete the course *Supervising Appraiser Trainee*, or an equivalent course approved by the board, prior to sponsoring an appraiser trainee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1425 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005), amended LR 37:

§10308. Appraiser Trainees

A. The scope of work for the appraiser trainee shall be limited to the appraisal of those properties that the supervising appraiser is licensed to appraise.

B. A trainee shall not perform any appraisals under the supervision of a licensed appraiser whose license has been suspended or revoked.

C. A certified residential or certified general real property appraiser may engage a licensed appraiser trainee to assist in the performance of real estate appraisals, provided the certified appraiser meets the following criteria:

1. has been licensed in good standing with the board for at least two full years;

2. has no more than three trainees working under his/her supervision at any one time, either as employees or subcontractors;

3. agrees to supervise the licensed appraiser trainee's work product, as specified below, subject to the guidelines and requirements of the Uniform Standards of Professional Appraisal Practice, and be responsible for the trainee's conduct.

a. Supervision implies that the supervisor will not sign or endorse an appraisal report that was not substantially produced by the appraiser trainee. The term substantial means that the trainee contributed materially and in a verifiable manner to the research and/or analysis that led to the final opinion of value expressed in the appraisal.

4. The supervising appraiser shall accompany the licensed appraiser trainee on inspections of the subject property until the supervising appraiser feels the appraiser trainee is competent to do so.

5. The supervising appraiser shall make available to the trainee a copy of every appraisal report wherein the trainee has provided substantial professional assistance in the preparation of the report as defined above.

6. The supervising appraiser shall sign every appraisal report prepared by the trainee who acts under the supervising appraiser's supervision.

7. The supervising appraiser shall immediately notify the board and the trainee in writing of any termination of supervision of a licensed appraiser trainee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005), amended LR 37:

§10309. Application for Experience Credit

A. - C. ...

D. Applicants may submit appraisals to the peer review committee for review prior to submission of the application for experience credit.

E. Only those real property appraisals consistent with the Uniform Standards of Professional Appraisal Practice will be accepted by the board for experience credit.

F. The board may require an applicant to successfully complete additional educational training consisting of not less than 15 or more than 30 instructional hours of course work approved by the board, which shall not be used to satisfy the continuing education requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1333 (June 2005), amended LR 37:

§10311. Residential Experience Requirements

A. A minimum of 3500 hours of appraisal experience in no fewer than 24 months is required. The maximum allowable credit that shall be applied toward the experience requirement in a 12-month period is 1750 hours.

A.1. - B. ...

C. At least 1750 hours of appraisal experience shall come from the development of appraisals reported in self contained or summary reports.

D. Residential experience credit hours shall be limited as follows.

1. One unit dwelling (house, townhouse, condominium)	8 hours
2. Two to four unit dwelling (apartment, duplex, condominium)	10 hours
3. Residential lot (1 2- 4 family)	6 hours
4. Residential subdivision sites	8 hours
5. Farm or timber acreage suitable for a house site	8 hours
6. Rural residence-one unit primary dwelling—10 acres or less	10 hours
7. Ranchette—part-time rural use—10 to 25 acres—with main dwelling and outbuildings, such as additional residence, barns, and/or other outbuildings	10 hours
8. All other unusual structures or acreage—larger or more complex than typical properties described herein—hours to be determined by board upon submission	12 hours
9. Review of appraisals shall be worth 50 percent of the hours awarded for the appraisal (not to exceed 350 hours per year or 1750 hours in total)	

E. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1426 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1334 (June 2005), amended LR 37:

§10313. General Experience Requirements

A. A minimum of 5000 hours of appraisal experience in no fewer than 36 months is required. The maximum

allowable credit that shall be applied toward the experience requirement in a 12-month period is 1700 hours.

1. When an appraisal report is signed by more than one trainee, credit for said assignment must be divided equally. For the purpose of granting credit, a person signing in the capacity of a review or supervisory appraiser is not considered as a co-signer on the report, provided that his or her role as such is clearly indicated in the report.

2. ...

B. A maximum of 1000 hours of residential experience credit hours may be applied toward the total hours required for a certified general real property appraiser license.

C. At least 2500 hours of appraisal experience shall come from the development of appraisals reported in self contained or summary format. These reports shall include a direct sales approach, cost data approach, and income data approach.

D. General experience credit hours shall be limited as follows.

1. Apartments 20 units or less over 20 units	40 hours 80 hours
2. Hotels/motels	85 hours
3. Nursing home/assisted living facilities	85 hours
4. Industrial/warehouse properties	80 hours
5. Office/medical buildings Single tenant or owner occupied Multiple tenant	40 hours 80 hours
6. Condominiums complexes	85 hours
7. Retail properties Single tenant or owner occupied Multiple tenant	40 hours 80 hours
8. Commercial or multi-family tracts	40 hours
9. Ranch – pasture or grazing usage	40 hours
10. Agricultural land	40 hours
11. Dairy or poultry farms	40 hours
12. Timberland appraisals	40 hours
13. Specialized properties	Submit to board for determination
14. No more than 40 percent of the cumulative hours may be earned from any one property type category.	
15. Review of appraisals shall be worth 50 percent of the hours awarded for the appraisal. No more than 2500 hours total shall be from reviews.	

E. - E.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1427 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board of Certification, LR 29:126 (February 2003), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1334 (June 2005), amended LR 37:

§10315. Appraisal Review Requirements

A. - B.4. ...

C. No more than 50 percent of experience credit hours shall be awarded for review of appraisals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1428 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1335 (June 2005), amended LR 37:

Chapter 104. Education Providers/Course Approval
§10403. Approval of Qualifying/Continuing Education Courses

A. Education providers shall apply directly to the board for qualifying and continuing education course approval. Application forms will be provided by the board. Information to be submitted for each course offering shall include:

1. - 7. ...

B. Any request for additional course approval from an approved education provider shall be approved by the board prior to the course presentation.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005), amended LR 37:

§10407. Qualifying Education

A. A class hour is defined as 60 minutes, of which at least 50 minutes shall be instruction attended by the student. The prescribed number of class hours includes time for examinations.

B. Courses taken to satisfy the qualifying education requirement shall be granted only where the minimum length of the course is at least 15 instructional hours and successful completion of a final examination pertinent to that educational offering is required.

C. ...

D. Distance education is defined as any education process based on the geographical separation of student and instructor. A distance education course shall be acceptable to meet class hour requirements if:

1. the course provides a reciprocal environment where the student has an appropriate level of verbal or written communication with the instructor; and

2. one of the following requirements is met:

a. the course shall be presented by an accredited college, community or junior college (Commission on Colleges, regional or national accreditation association), or university that offers distance education programs; or

b. the course shall have received approval from the International Distance Education Certification Center (IDECC) for the course design and delivery method, and either:

D.2.b.i. - ii. ...

E. Courses taken to satisfy the qualifying education requirement shall not be repetitive. USPAP courses taken in different years are not considered repetitive. Courses shall foster problem-solving skills in the education process by utilizing case studies as a major teaching method when applicable.

F. Applicants shall take the 15-Hour National USPAP Course, or its equivalent, and pass the associated 15-Hour National USPAP Course Examination. The course instructor shall be an AQB Certified USPAP Instructor who is also a state certified real property appraiser. Course equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB. USPAP education presented in a distance education format

shall be designed to foster appropriate student to instructor interaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1429 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1336 (June 2005), amended LR 37:

§10409. Continuing Education

A. The purpose of continuing education is to ensure that appraisers participate in a program that maintains and increases their skill, knowledge, and competency in real property appraising.

B. Credit towards the continuing education hour requirements for each appraiser classification will be granted only where the length of the educational offering is at least two hours.

C. Credit will be granted for education offerings that are consistent with the purpose of continuing education and cover those real estate appraisal topics, including, but not limited to:

C.1. - C.16. ...

D. Up to one half of the continuing education requirement may also be granted for instruction of any approved course or seminar. Credit for instructing any approved course or seminar shall only be awarded once during a continuing education cycle.

E. ...

F. In addition to the requirements described in §10407.D, distance education courses intended for use as continuing education shall include at least one of the following:

1. ...

2. the student successfully completes prescribed materials required to demonstrate knowledge of the subject matter.

G. Real estate appraisal related field trips may be acceptable for credit toward the continuing education requirements; however, transit time to or from the field trip shall not be included when awarding credit unless instruction occurs during said transit time.

H. Appraisers shall successfully complete the seven-hour National USPAP Update Course, or its equivalent every two calendar years. Equivalency shall be determined through the AQB Course Approval Program or by an alternate method established by the AQB.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisers Board of Certification, LR 25:1430 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1337 (June 2005), amended LR 37:

§10411. Instructor Qualifications

A. - A.5. ...

B. Instructors for continuing education courses shall satisfy at least one of the following qualification requirements:

1. - 4. ...

C. Instructors of the 15-hour National USPAP Course and seven-hour National USPAP Update Course shall be

certified by the Appraiser Qualifications Board (AQB) and hold a current license as a state certified real appraiser.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1430 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1338 (June 2005), amended LR 37:

§10413. Americans with Disabilities Act (ADA)

Compliance

A. For purposes of meeting the requirements of the Americans with Disabilities Act (ADA), the board may permit an alternative method of course delivery other than the regular method of presentation. Verification of the disability of the individual requiring completion of the course work through an alternative delivery method may be required by the board prior to granting such a request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1431 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1338 (June 2005), amended LR 37:.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1431 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1338 (June 2005), amended LR 37:

§10415. Americans with Disabilities Act (ADA)

Compliance

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1431 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1338 (June 2005), repealed LR 37:

Chapter 105. Investigations and Adjudicatory Proceedings

§10507. Adjudicatory Proceedings

A. - A.1.k. ...

1. The actions of the board relative to all consent orders shall be noted in the minutes of the meeting at which the consent order is considered and authorization is granted to the executive director to execute the order in the name of the board.

2. - 2.d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:3395.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Real Estate Appraisal Board of Certification, LR 25:1432 (August 1999), amended by the Office of the Governor, Real Estate Appraisers Board, LR 31:1338 (June 2005), amended LR 37:

Family Impact Statement

In accordance with R.S. 49:953(A)(1)(a)(viii) and 972, the following Family Impact Statement is submitted with the Notice of Intent for publication in the October 20, 2010 *Louisiana Register*:

The proposed Rules have no known impact on family, formation, stability, or autonomy.

Public Comments

Interested parties are invited to submit written comments on the proposed regulations through November 9, 2010 at 4:30 p.m., to Stephanie Boudreaux, Louisiana Real Estate Commission, Box 14785, Baton Rouge, LA 70898-4785 or to 9071 Interline Avenue, Baton Rouge, LA 70809.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Appraisers

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There are no implementation costs (savings) to state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The fee schedule from which the Louisiana Real Estate Appraisers Boards collects its revenue will remain unchanged. As such, there is no estimated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no anticipated effect on competition and employment, in that all new applicants must adhere to the same guidelines, standards, and deadlines. Individuals that are presently on file, and working toward a certification or certification upgrade, will effectively be grandfathered in and not subject to the proposed amendments to Section 10311 and 10313, both of which define the experience credits required for obtaining a certified appraiser license. In adopting the "hours" system recommended by the federal Appraiser Qualification Board, at the discretion of the REAB, the proposed hours are greater than the minimum amount contained in the federal guidelines and the current requirement. The increased hours ensure that appraisers have a greater exposure to the profession before working independently, and the general public and financial institutions will be better protected from poor appraisal practice due to inexperience.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment, in that all new applicants must adhere to the same guidelines, standards, and deadlines.

Julius C. Willie
Executive Director
1010#079

H. Gordon Monk
Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Board of Veterinary Medicine

Temporary Registration During Oil Spill;
License Procedures
(LAC 46:LXXXV.312)

Editor's Note: This Notice of Intent is being repromulgated due to a submission error. The original Notice may be viewed on pages 2106-2108 of the September 20, 2010 edition of the *Louisiana Register*.

The Louisiana Board of Veterinary Medicine proposes to adopt LAC 46:LXXXV.312 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:953 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518(A)(9). The Rule is being adopted implementing the regulatory requirements for the issuance of temporary registrations to qualified out of state veterinarians with unique veterinary expertise in the care of free-ranging migratory birds, marine mammal, sea turtles, and other unspecified animals affected by an oil spill in Louisiana in keeping with its function as defined by the state Legislature in the Veterinary Practice Act.

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

Due to the unanticipated and continuing devastating impact the oil has on free-ranging migratory birds, marine mammal, sea turtles, and other unspecified animals, it is necessary to further address the need for qualified specialized veterinarians to be able to assist the people and animals of Louisiana during the BP Deepwater Horizon oil spill cleanup effort.

This Rule does not allow out-of-state veterinarians, who do not meet the specific and express qualifications set forth in the Rule, to provide veterinary services in Louisiana. This Rule does not limit or adversely impact the practices of Louisiana veterinarians to provide veterinary services pursuant to their licensed authority in this state.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 3. Licensure Procedures

§312. Temporary Registration During Oil Cleanup (2010 BP Deepwater Horizon)

A. The Governor of Louisiana issued a Declaration of a Public Emergency (effective on or about April 29, 2010) regarding the Deepwater Horizon oil spill in the Gulf of Mexico. The effect of the spill, including the unfortunate and unforeseen delay in capping/stopping the unabated flow of oil, continues to have an adverse impact on the coastal parishes of our state. More specifically, the residual effect of the oil spill, even after the very recent capping/plugging of the well, is an unanticipated and continuing devastating impact on free-ranging migratory birds, marine mammal, sea turtles, and other unspecified animals.

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

C. The board exercises its legal authority pursuant to the Louisiana Veterinary Practice Act, R.S. 37:1518(A)(9), and adopts this Rule thereby granting temporary registration for a period of time to out of state veterinarians who meet the specific and express qualifications set forth in this Section.

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

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

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

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

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

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

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

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

G. All temporary registrations issued to qualified out-of-state veterinarians by the board as per Rule 311 (2010 Deepwater Horizon-ER #1) shall remain in effect during the emergency cleanup without the need for re-application to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 37:

Family Impact Statement

In compliance with Act 1183 and the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. This proposed Rule has no known impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Public Comments

Interested parties may submit written comments to Wendy D. Parrish, Executive Director, Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA 70801, or by facsimile to (225) 342-2142.

Comments will be accepted through the close of business on Friday, November 19, 2010.

Public Hearing

If it becomes necessary to convene a public hearing to receive comments in accordance with the Administrative Procedure Act, the hearing will be held on Wednesday, November 24, 2010 at 10 a.m. at the office of the Louisiana Board of Veterinary Medicine, 263 Third Street, Suite 104, Baton Rouge, LA.

Wendy D. Parrish
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Temporary Registration During Oil Spill; License Procedures

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units, except for those associated with publishing the amendment (estimated at \$400 in FY 2011). Licensees will be informed of this rule change via the board's regular newsletter or other direct mailings, which result in minimal costs to the Board.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units as no increase in fees will result from the rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or nongovernmental groups as a result of the rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

No impact on competition and employment is anticipated as a result.

Wendy D. Parrish
Executive Director
1010#076

H. Gordon Monk
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Bureau of Health Services Financing

Ambulatory Surgical Centers
Minimum Licensing Standards
(LAC 48:I.Chapter 45)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 48:I.Chapter 45 in the Medical Assistance Program as authorized by R.S. 36:254 and R.S. 40:2131-2141. These provisions have been revised and shall replace the current provisions governing the minimum licensing standards for ambulatory surgical centers. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Act 754 of the 2001 Regular Session of the Louisiana Legislature amended R.S. 40:2133(A) and 2136 to expand the definition of ambulatory surgical centers to include treatment centers that offer stereotactic radiosurgery by use of a Gamma Knife or similar neurosurgical tool. In addition, the Act directed the Department of Health and Hospitals to establish rules and minimum standards for the licensing of ambulatory surgical centers as defined in R.S. 40:2133(A). In compliance with Act 754, the department amended the licensing standards governing the operations of ambulatory surgical centers to exempt facilities operated primarily for the purpose of performing stereotactic radiosurgery procedures from certain requirements (*Louisiana Register*, Volume 28, Number 12).

Act 491 of the 2010 Regular Session of the Louisiana Legislature directed the department to establish provisions which allow licensed ambulatory surgical centers to enter into use agreements. In compliance with Act 491, the department now proposes to amend the provisions governing the minimum licensing standards for ambulatory surgical centers to establish provisions governing use agreements. In addition, the department proposes to clarify and reorganize these provisions in a clear and concise manner in the *Louisiana Administrative Code*.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 3. Licensing and Certification

Chapter 45. Ambulatory Surgical Centers

Preface Repealed.

§4501. Introduction

A. These regulations contain the minimum licensing standards for ambulatory surgical centers, pursuant to R.S. 40:2131-2141. Ambulatory surgical centers are established for the purpose of rendering surgical procedures to its patients on an outpatient basis.

B. The care and services to be provided by an ambulatory surgical center (ASC) shall include:

1. surgical procedures;
2. medications as needed for medical and surgical procedures rendered;
3. services necessary to provide for the physical and emotional well-being of patients;
4. emergency medical services; and
5. administrative support services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4503. Definitions

Administrator—the person responsible for the on-site, daily implementation and supervisions of the overall facility's operation commensurate with the authority conferred by the governing body.

Ambulatory Surgical Center—a facility with an organized medical staff of physicians and permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures. The facility provides continuous physician and professional nursing services to patients but does not provide services or accommodations for patients to stay overnight.

1. An Ambulatory surgical center may also be defined as a treatment center that is organized primarily for the

purpose of offering stereotactic radiosurgery by use of a gamma knife or similar neurosurgical tool is also defined as an ambulatory surgical center.

Appellate—the agency authorized to hear appeals as provided in the Administrative Procedure Act.

Cessation of Business—occurs when an ASC stops rendering services to the community.

Department—the Department of Health and Hospitals.

Governing Body—the individual or group of individuals who are legally responsible for the operation of the facility, including management, control, conduct and functioning of the facility; also known as the governing authority.

Licensed Practical Nurse—a person who possesses an unrestricted license and is in good standing with the Louisiana State Board of Practical Nurses.

Licensing Agency—the Department of Health and Hospitals.

Medical Staff—those physicians, dentists, podiatrists, and other professional practitioners who are authorized to practice in the center according to these standards and the requirements of the governing authority.

Minor Alterations—the painting of walls, changing of flooring products or any other cosmetic changes to the facility which do not involve moving structural walls, doors, windows, electrical or plumbing.

New Construction—any of the following structures that will be started after promulgation of these provisions shall be considered new construction:

1. newly constructed buildings;
2. additions to existing buildings;
3. conversions of existing buildings or portions thereof;
4. alterations, other than minor alterations, to an already existing ambulatory surgical center; or
5. any previously licensed ASC facility that has voluntarily or involuntarily ceased providing ASC services and surrendered its license shall be considered new construction for plan review purposes.

Overnight—on or during the evening or night time hours.

Physician—a doctor who possesses an unrestricted license and in good standing with the Louisiana Board of Medical Examiners. This includes a doctor of:

1. medicine;
2. osteopathy;
3. podiatry;
4. optometry;
5. dental surgery or dental medicine; or
6. chiropractics.

Standards—the rules, regulations and policies duly adopted and promulgated by the Department of Health and Hospitals with the approval of the secretary.

Use Agreement—a written agreement between a licensed ambulatory surgical center and an individual or entity in which the ambulatory surgical center allows the individual or entity to use its facility, or a portion thereof, on a part-time basis to provide services as an ambulatory surgical center. All use agreements shall comply with applicable federal laws and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4505. Licensure Requirements

A. The Department of Health and Hospitals' Health Standards Section (HSS) is the only licensing authority for ambulatory surgical centers in the state of Louisiana.

B. Each ASC license shall:

1. be issued only to the person or entity named in the license application;
2. be valid only for the facility to which it is issued and only for the specific geographic address of that facility;
3. be valid for one year from the date of issuance, unless revoked, suspended, modified or terminated prior to that date, or unless a provisional license is issued;
 - a. a provisional license shall be valid for a period of six months if there is no immediate and serious threat to the health and safety of patients;
4. expire on the last day of the twelfth month after the date of issuance, unless timely renewed by the facility;
5. not be subject to sale, assignment, donation, or other transfer, whether voluntary or involuntary; and
6. be posted in a conspicuous place on the licensed premises at all times.

C. The licensed ASC facility shall abide by and adhere to any state law, rules, policy, procedure, manual, or memorandums pertaining to such facilities. ASC facilities that have entered into a use agreement shall be responsible for compliance with these licensing standards and any applicable state and federal regulations during the period of use of the ASC facility.

D. A separately licensed ASC facility shall not use a name which is substantially the same as the name of another such facility licensed by the department, unless the facility is under common ownership with other ASC facilities.

1. The decision to allow an ASC facility to use a name that is substantially similar is at the discretion of the Health Standards Section.

E. All licensed ASC facilities shall notify the department of any changes or additions of surgical services provided. If these surgical services are new to the licensed ASC, the ASC shall provide these surgical services in accordance with the provisions of the Operating Rooms Section of the current edition of the *Guidelines for Design and Construction for Health Care Facilities*, and in accordance with acceptable standards of practice.

F. All accredited or deemed ASC facilities shall immediately notify the department of any changes in accreditation status.

G. A licensed ASC facility shall not have any off-site campuses.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4507. Initial Licensure Application Process

A. An initial application for licensing as an ASC shall be obtained from the department. A completed initial license application packet for an ASC facility shall be submitted to and approved by the department prior to an applicant providing services.

B. The initial licensing application packet shall include:

1. a completed ASC licensure application and the non-refundable licensing fee as established by statute;
2. a copy of the approval letter of the architectural facility plans from the Office of the State Fire Marshal

(OSFM) and any other office/entity designated by the department to review and approve the facility's architectural plans;

3. a copy of the on-site inspection report with approval for occupancy by the Office of the State Fire Marshal, if applicable;

4. a copy of the on-site health inspection report with approval of occupancy from the Office of Public Health (OPH);

5. proof of general and professional liability insurance of at least \$300,000;

6. disclosure of ownership and control information;

7. the days and hours of operation;

8. an organizational chart and names, including position titles, of key administrative personnel and governing body; and

9. any other documentation or information required by the department for licensure.

C. If the initial licensing packet is incomplete, the applicant shall be notified of the missing information and shall have 90 days from receipt of the notification to submit the additional requested information. If the additional requested information is not submitted to the department within 90 days, the application shall be closed. If an initial licensing application is closed, an applicant who is still interested in becoming an ASC facility must submit a new initial licensing application packet with a new initial licensing fee to start the initial licensing process.

D. Once the initial licensing application packet has been approved by the department, notification of such approval shall be forwarded to the applicant. Within 90 days of receipt of the approval of the application, the applicant must notify the department that the ASC facility is ready and is requesting an initial licensing survey. If an applicant fails to notify the department within 90 days, the initial licensing application shall be closed. After an initial licensing application is closed, an applicant who is still interested in becoming a licensed ASC facility must submit a new initial licensing packet with a new initial licensing fee to start the initial licensing process.

E. Applicants must be in compliance with all appropriate federal, state, departmental or local statutes, laws, ordinances, rules, regulations and fees before the ASC facility will be issued an initial license to operate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4509. Initial Licensing Surveys

A. Prior to the initial license being issued, an initial on-site licensing survey shall be conducted to ensure compliance with the licensing laws and standards.

B. The facility shall not provide services to any patient until the initial licensing survey has been performed and the ASC has been determined to be in compliance with the licensing regulations and written approval from the Health Standards Section (HSS).

C. In the event that the initial licensing survey finds that the ASC facility is compliant with all licensing laws, regulations and other required statutes, laws, ordinances, rules, regulations, and fees, the department shall issue a full license to the facility. The license shall be valid until the

expiration date shown on the license, unless the license is modified, revoked, suspended or terminated.

D. In the event that the initial licensing survey finds that the ASC facility is noncompliant with any licensing laws or regulations, or any other required rules or regulations that present a potential threat to the health, safety, or welfare of the patients, the department shall deny the initial license.

E. In the event that the initial licensing survey finds that the ASC facility is noncompliant with any licensing laws or regulations, or any other required rules or regulations, but the department in its sole discretion determines that the noncompliance does not present a threat to the health, safety or welfare of the patients, the department may issue a provisional initial license for a period not to exceed six months. The facility shall submit a plan of correction to the department for approval, and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license.

1. If all such noncompliance or deficiencies are corrected on the follow-up survey, a full license will be issued.

2. If all such noncompliance or deficiencies are not corrected on the follow-up survey, or new deficiencies affecting the health, safety or welfare of a patient are cited, the provisional license will expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and the appropriate licensing fee.

F. The initial licensing survey of an ASC facility shall be an announced survey. Follow-up surveys to the initial licensing surveys are unannounced surveys.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4511. Types of Licenses and Expiration Dates

A. The department shall have the authority to issue the following types of licenses.

1. Full Initial License. The department shall issue a full license to the ASC facility when the initial licensing survey finds that the facility is compliant with all licensing laws and regulations, and is compliant with all other required statutes, laws, ordinances, rules, regulations, and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

2. Provisional Initial License. The department may issue a provisional initial license to the ASC facility when the initial licensing survey finds that the ASC facility is noncompliant with any licensing laws or regulations or any other required statutes, laws, ordinances, rules, regulations or fees, but the department determines that the noncompliance does not present a threat to the health, safety or welfare of the patients.

3. Full Renewal License. The department may issue a full renewal license to an existing licensed ASC facility that is in substantial compliance with all applicable federal, state, departmental, and local statutes, laws, ordinances, rules, regulations and fees. The license shall be valid until the expiration date shown on the license, unless the license is modified, revoked, suspended, or terminated.

B. The department, in its sole discretion, may issue a provisional license to an existing licensed ASC facility for a

period not to exceed six months for any of the following reasons.

1. The existing ASC facility has more than five deficient practices or deficiencies cited during any one survey.

2. The existing ASC facility has more than three validated complaints in a 12 month period.

3. The existing ASC facility has been issued a deficiency that involved placing a patient at risk for serious harm or death.

4. The existing ASC facility has failed to correct deficient practices within 60 days of being cited for such deficient practices or at the time of a follow-up survey.

5. The existing ASC facility is not in substantial compliance with all applicable federal, state, departmental and local statutes, laws, ordinances, rules regulations and fees at the time of renewal of the license.

C. When the department issues a provisional license to an existing licensed ASC facility, the facility shall submit a plan of correction to the department for approval and shall be required to correct all such noncompliance or deficiencies prior to the expiration of the provisional license. The department shall conduct a follow-up survey, either on-site or by desk review, of the ASC facility prior to the expiration of the provisional license.

1. If the follow-up survey determines that the facility has corrected the deficient practices and has maintained compliance during the period of the provisional license, the department may issue a full license for the remainder of the year until the anniversary date of the ASC facility license.

2. If the follow-up survey determines that all non-compliance or deficiencies have not been corrected, or if new deficiencies that are a threat to the health, safety or welfare of a patient are cited on the follow-up survey, the provisional license shall expire and the facility shall be required to begin the initial licensing process again by submitting a new initial license application packet and fee.

3. The department shall issue written notice to the facility of the results of the follow-up survey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4513. Changes in Licensee Information or Personnel

A. An ASC facility license shall be valid only for the person or entity named in the license application and only for the specific geographic address listed on the license application.

B. Any change regarding the ambulatory surgical center's entity name, "doing business as" name, mailing address, telephone number or any combination thereof, shall be reported in writing to the department within two days of the change.

C. Any change regarding the facility's key administrative personnel shall be reported in writing to the department within 10 days of the change.

1. Key administrative personnel include the:

- a. administrator; and
- b. director of nursing.

2. The facility's notice to the department shall include the individual's:

- a. name;
- b. address;

- c. hire date; and
- d. qualifications.

D. A change of ownership (CHOW) of the ASC facility shall be reported in writing to the department within five days of the change. A CHOW may include one of the following.

1. Partnership. In the case of a partnership, the removal, addition, or the substitution of a partner, unless the partners expressly agree otherwise, as permitted by applicable state law, constitutes a change of ownership.

2. Unincorporated Sole Proprietorship. Transfer of title and property to another party constitutes a change of ownership.

3. Corporation. The merger of the provider corporation into another corporation, or the consolidation of two or more corporations, resulting in the creation of a new corporation constitutes a change of ownership. Transfer of corporate stock or the merger of another corporation into the provider corporation does not constitute a change of ownership.

4. Leasing. The lease of all or part of a provider facility constitutes a change of ownership of the leased portion.

E. The license of an ASC facility is not transferable or assignable and cannot be sold. The new owner shall submit the legal CHOW document, all documents required for a new license and the applicable licensing fee. Once all application requirements are completed and approved by the department, a new license shall be issued to the new owner.

1. An ASC facility that is under license revocation may not undergo a CHOW.

2. If the CHOW results in a change of geographic address, an on-site survey shall be required prior to issuance of the new license.

F. If the ASC facility changes its name without a change in ownership, the facility shall report such change to the department in writing five days prior to the change. The change in the facility name requires a change in the ASC license. There is a \$25 fee for a name change and re-issuance of a license.

G. Any request for a duplicate license shall be accompanied by a \$25 fee.

H. If the ASC facility changes the physical address of its geographic location without a change in ownership, the facility shall report such change to the department in writing at least six weeks prior to the change. Because the license of an ASC facility is valid only for the geographic location of that facility, and is not transferrable or assignable, the facility shall submit a new licensing application and all of the required fees, licensing inspection reports, and architectural plan reviews for the new location.

1. An on-site survey shall be required prior to the issuance of the new license.

2. The change in the facility's physical address results in a new anniversary date and the full licensing fee must be paid.

I. An ASC that enters into a use agreement shall submit written notification to the department within five days of the effective date of the agreement. This notice shall include:

1. a copy of the signed use agreement;
2. the days and hours of operation that the entity/individual will be using the licensed ASC facility; and

3. the type of surgical procedures that will be performed at the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37: **§4515. Renewal of License**

A. The ACS facility shall submit a completed license renewal application packet to the department at least 30 days prior to the expiration of the current license. The license renewal application packet shall include:

1. the license renewal application;
2. the days and hours of operation;
3. a current State Fire Marshal report, if applicable;
4. a current OPH inspection report;
5. the non-refundable license renewal fee; and
6. any other documentation required by the department.

B. The department may perform an on-site survey and inspection upon annual renewal of a license.

C. Failure to submit a completed license renewal application packet prior to the expiration of the current license will result in the voluntary non-renewal of the ASC facility license. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the provider.

D. If an existing licensed ASC facility has been issued a notice of license revocation, suspension or termination, and the facility's license is due for annual renewal, the department shall deny the license renewal application and shall not issue a renewal license.

1. If a timely administrative appeal has been filed by the facility regarding the license revocation, suspension, or termination, the administrative appeal shall be suspensive, and the facility shall be allowed to continue to operate and provide services until such time as the administrative tribunal or department issues a decision on the license revocation, suspension, or termination.

2. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare, or safety of a patient, the imposition of such action may be immediate and may be enforced during the pendency of the administrative appeal. If the secretary of the department makes such a determination, the facility will be notified in writing.

3. The denial of the license renewal application does not affect in any manner the license revocation, suspension, or termination.

E. The renewal of a license does not in any manner affect any sanction, civil monetary penalty or other action imposed by the department against the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37: **§4517. Survey Activities**

A. The department may conduct periodic licensing surveys and other surveys as deemed necessary to ensure compliance with all laws, rules and regulations governing ASC facilities and to ensure patient health, safety and welfare. These surveys may be conducted on-site or by administrative review and shall be unannounced.

B. The department may require an acceptable plan of correction from a facility for any survey where deficiencies have been cited, regardless of whether the department takes other action against the facility for the deficiencies cited in the survey. The acceptable plan of correction shall be approved by the department.

C. A follow-up survey may be conducted for any survey where deficiencies have been cited to ensure correction of the deficient practices.

D. The department may issue appropriate sanctions for noncompliance, deficiencies and violations of law, rules and regulations. Sanctions include, but are not limited to:

1. civil monetary penalties;
2. directed plans of correction; and
3. license revocation.

E. DHH surveyors and staff shall be:

1. given access to all areas of the facility, as necessary, and all relevant files during any survey;
2. allowed to interview any facility staff, patient or other persons as necessary or required to conduct the survey; and
3. allowed to photocopy any records/files requested by surveyors during the survey process.

F. The department shall conduct complaint surveys in accordance with R.S. 40:2009.13 et seq.

G – H. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37: **§4519. Statement of Deficiencies**

A. Any statement of deficiencies issued by the department to an ASC facility shall be available for disclosure to the public 30 days after the facility submits an acceptable plan of correction to the deficiencies or 90 days after the statement of deficiencies is issued to the facility, whichever occurs first.

B. Unless otherwise provided in statute or in these licensing provisions, a facility shall have the right to an informal reconsideration of any deficiencies cited as a result of a survey or investigation.

1. Correction of the violation, noncompliance or deficiency shall not be the basis for the reconsideration.

2. The informal reconsideration of the deficiencies shall be requested in writing within 10 days of receipt of the statement of deficiencies, unless otherwise provided in these standards.

3. The request for informal reconsideration of the deficiencies shall be made to the Health Standards Section and will be considered timely if received by HSS within 10 days of the facility's receipt of the statement deficiencies.

4. If a timely request for an informal reconsideration is received, the department shall schedule and conduct the informal reconsideration. The facility shall be notified in writing of the results of the informal reconsideration.

5. Except as provided for complaint surveys pursuant to R.S. 40:2009.13 et seq., and as provided in these licensing provisions for license denials, revocations and non-renewals, the decision of the informal reconsideration team shall be the final administrative decision regarding the deficiencies.

a. There is no administrative appeal right of such deficiencies.

6. Pursuant to R.S. 40:2009.13 et seq., for complaint surveys in which the Health Standards Section determines that the complaint involves issues that have resulted in or are likely to result in serious harm or death, as defined in the statute, the determination of the informal reconsideration may be appealed administratively to the Bureau of Appeals. The hearing before the Bureau of Appeals is limited only to whether the investigation or complaint survey was conducted properly or improperly. The Bureau of Appeals shall not delete or remove deficiencies as a result of such hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37: **§4521. Denial of License, Revocation of License, Denial of License Renewal**

A. The department may deny an application for an initial license or a license renewal, or may revoke a license in accordance with the provisions of the Administrative Procedure Act.

B. Denial of an Initial License

1. The department shall deny an initial license in the event that the initial licensing survey finds that the ASC facility is noncompliant with any licensing laws or regulations, or any other required statutes or regulations that present a potential threat to the health, safety or welfare of the patients.

2. The department shall deny an initial license for any of the reasons a license may be revoked or non-renewed pursuant to these licensing provisions.

3. If the department denies an initial license, the applicant for an ASC facility license shall not render services to patients.

C. Voluntary Non-Renewal of a License. If a facility fails to timely renew its license, the license expires on its face and is considered voluntarily surrendered. There are no appeal rights for such surrender or non-renewal of the license, as this is a voluntary action on the part of the facility.

D. Revocation of License or Denial of License Renewal. An ASC facility license may be revoked or denied renewal for any of the following reasons, including but not limited to:

1. failure to be in substantial compliance with the ASC licensing laws, rules and regulations;

2. failure to be in substantial compliance with other required statutes, laws, ordinances, rules or regulations;

3. failure to uphold patient rights whereby deficient practices result in harm, injury or death of a patient;

4. failure to protect a patient from a harmful act by a clinic employee or other patient on the premises including, but not limited to:

a. any action which poses a threat to patient or public health and safety;

b. coercion;

d. threat or intimidation;

e. harassment;

f. abuse; or

g. neglect;

5. failure to notify the proper authorities, as required by federal or state law or regulations, of all suspected cases of the acts outlined in §4521.D.4;

6. failure to employ qualified personnel;
7. failure to remain operational on the days and during the hours the facility has reported to the department, unless the closure is unavoidable due to a man-made or natural disaster;
8. failure to submit an acceptable plan of correction for deficient practices cited during an on-site survey within the stipulated time frames;
9. failure to submit the required fees, including but not limited to:
 - a. fees for address or name changes;
 - b. any fine assessed by the department; or
 - c. fee for a CHOW;
10. failure to allow entry into the ASC facility or access to requested records during a survey;
11. failure to protect patients from unsafe care by an individual employed by the facility;
12. failure to correct deficient practice(s) for which a provisional license has been issued;
13. when the ASC facility staff or owner knowingly (or with reason to know) makes a false statement of a material fact in any of the following:
 - a. the application for licensure;
 - b. data forms;
 - c. clinical records;
 - d. matters under investigation by the department;
 - e. information submitted for reimbursement from any payment source; or
 - f. advertising.
14. conviction of a felony or entering a plea of guilty or *nolo contendere* to a felony by an owner, administrator, director of nursing, or medical director as evidenced by a certified copy of the conviction;
15. failure to comply with all of the reporting requirements in a timely manner as requested by the department;
16. failure to comply with the terms and provisions of a settlement agreement with the department or an educational letter;
17. failure to repay an identified overpayment to the department or failure to enter into a payment agreement to repay such overpayment;
18. failure to timely pay outstanding fees, fines, sanctions or other debts owed to the department;
19. failure to comply with the terms and provisions of a settlement agreement or education letter; or
20. failure to comply with the provisions of R.S. 37:1306 et seq., relative to.

E. In the event an ASC facility license is revoked, renewal is denied (other than for cessation of business or non-operational status) or the license is surrendered in lieu of an adverse action, any owner, officer, member, manager, director or administrator of such ASC facility is prohibited from owning, managing, directing or operating another ASC facility for a period of two years from the date of the final disposition of the revocation, denial action or surrender.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4523. Notice and Appeal of License Denial, License Revocation and License Non-Renewal

A. Notice of a license denial, license revocation or license non-renewal (i.e. denial of license renewal) shall be given to the facility in writing.

B. The ASC facility has a right to an informal reconsideration of the license denial, license revocation or license non-renewal. There is no right to an informal reconsideration of a voluntary non-renewal or surrender of a license by the facility.

1. The request for the informal reconsideration shall be submitted within 15 days of the receipt of the notice of the license denial, license revocation or license non-renewal. The request for informal reconsideration shall be in writing and shall be forwarded to the Health Standards Section.

2. The request for informal reconsideration shall include any documentation that demonstrates that the determination was made in error.

3. If a timely request for an informal reconsideration is received by HSS, an informal reconsideration shall be scheduled and the facility will receive written notification of the date of the informal reconsideration.

4. The ASC shall have the right to appear in person at the informal reconsideration and may be represented by counsel.

5. Correction of a violation or deficiency which is the basis for the license denial, revocation or non-renewal shall not be a basis for reconsideration.

6. The informal reconsideration process is not in lieu of the administrative appeals process.

7. The facility will be notified in writing of the results of the informal reconsideration.

C. The ASC facility has a right to an administrative appeal of the license denial, license revocation or license non-renewal. There is no right to an administrative appeal of a voluntary non-renewal or surrender of a license by the facility.

1. The facility shall request the administrative appeal within 30 days of the receipt of the results of the informal reconsideration.

a. The facility may forego its rights to an informal reconsideration, and if so, shall request the administrative appeal within 30 days of the receipt of the notice of the license denial, revocation or non-renewal.

2. The request for administrative appeal shall be in writing and shall be submitted to the DHH Bureau of Appeals. The request shall include any documentation that demonstrates that the determination was made in error and shall include the basis and specific reasons for the appeal.

3. If a timely request for an administrative appeal is received by the Bureau of Appeals, the administrative appeal of the license revocation or license non-renewal shall be suspensive, and the facility shall be allowed to continue to operate and provide services until such time as the department issues a final administrative decision.

a. If the secretary of the department determines that the violations of the facility pose an imminent or immediate threat to the health, welfare or safety of a patient, the imposition of the license revocation or license non-renewal may be immediate and may be enforced during the pendency

of the administrative appeal. If the secretary of the department makes such a determination, the facility will be notified in writing.

4. Correction of a violation or a deficiency which is the basis for the denial, revocation or non-renewal shall not be a basis for an administrative appeal.

D. If an existing licensed ASC facility has been issued a notice of license revocation, and the facility's license is due for annual renewal, the department shall deny the license renewal application. The denial of the license renewal application does not affect, in any manner, the license revocation.

E. If a timely administrative appeal has been filed by the facility on a license denial, license non-renewal or license revocation, the Bureau of Appeals shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Bureau of Appeals if good cause is shown.

1. If the final agency decision is to reverse the license denial, license non-renewal or license revocation, the facility's license will be re-instated or granted upon the payment of any licensing fees, outstanding sanctions or other fees due to the department.

2. If the final agency decision is to affirm the license non-renewal or license revocation, the facility shall stop rendering services to patients.

a. Within 10 days of the final agency decision, the facility shall notify HSS, in writing, of the secure and confidential location where the patient records will be stored.

F. There is no right to an informal reconsideration or an administrative appeal of the issuance of a provisional initial license to a new ASC facility, or the issuance of a provisional license to an existing facility. A facility that has been issued a provisional license is licensed and operational for the term of the provisional license. The issuance of a provisional license is not considered to be a denial of license, renewal or revocation.

G. An ASC facility with a provisional initial license or an existing facility with a provisional license that expires due to noncompliance or deficiencies cited at the follow-up survey shall have the right to an informal reconsideration and the right to an administrative appeal, and is limited to whether the deficiencies were properly cited.

1. The correction of a violation, noncompliance or deficiency after the follow-up survey shall not be the basis for the informal reconsideration or for the administrative appeal.

2. The informal reconsideration and the administrative appeal are limited to whether the deficiencies were properly cited at the follow-up survey.

3. The facility shall request the informal reconsideration in writing, which shall be received by the Health Standards Section within five days of receipt of the notice of the results of the follow-up survey from the department.

4. The facility shall request the administrative appeal within 15 days of receipt of the notice of the results of the follow-up survey from the department. The request for

administrative appeal shall be in writing and shall be submitted to the DHH Bureau of Appeals.

5. A facility with a provisional initial license or an existing facility with a provisional license that expires under the provisions of this Chapter shall cease providing services to patients unless the Bureau of Appeals issues a stay of the expiration.

a. The stay may be granted by the Bureau of Appeals upon application by the facility at the time the administrative appeal is filed and only after a contradictory hearing and only upon a showing that there is no potential harm to the patients being served by the facility.

6. If a timely administrative appeal has been filed by a facility with a provisional initial license that has expired, or by an existing facility whose provisional license has expired under the provisions of this Chapter, the Bureau of Appeals shall conduct the hearing within 90 days of the docketing of the administrative appeal. One extension, not to exceed 90 days, may be granted by the Bureau of Appeals if good cause is shown.

a. If the final agency decision is to remove all deficiencies, the facility's license will be re-instated upon the payment of any outstanding sanctions and licensing or other fees due to the department.

b. If the final agency decision is to uphold the deficiencies and affirm the expiration of the provisional license, the facility shall cease rendering services to patients.

i. Within 10 days of the final agency decision, the facility must notify HSS in writing of the secure and confidential location where the patient records will be stored.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4525. Cessation of Business

A. An ASC facility that intends to close or cease operations shall give 30 days' advance written notice to the department. The cessation of business is deemed to be effective on the date the facility voluntarily stops rendering services to the community. The facility shall be required to return the original license to the department.

B. The ASC facility shall submit a written plan to the department for approval relative to the disposition of patient medical records. The plan shall include:

1. provisions that comply with state laws on the storage, maintenance, access and confidentiality of the closed ASC's medical records;

2. an appointed custodian who shall provide for the physical and environmental security that protects the records against fire and water damage, intrusion, unauthorized access, loss and destruction; and

3. the facility's date of closure.

C. If a facility fails to follow these procedures, the owners, managers, officers, directors and administrators may be prohibited from opening, managing, directing, operating or owning an ASC facility for a period of two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter B. Administration and Organization

§4527. Governing Body

A. An ASC facility shall have an identifiable governing body with responsibility for, and authority over, the policies and activities of the facility, which shall include use agreements and all contracts. The governing body is the ultimate governing authority of the ASC and shall adopt bylaws which address its responsibilities. No contract or other arrangements, including use agreements, shall limit or diminish the responsibilities of the governing body.

B. An ASC shall have documents identifying the following information regarding the governing body:

1. names and addresses of all members;
2. terms of membership;
3. officers of the governing body; and
4. terms of office for any officers.

C. The governing body shall be comprised of three or more persons and shall hold formal meetings at least twice a year. There shall be written minutes of all formal meetings and the bylaws shall specify the frequency of meetings and quorum requirements.

D. The governing body of an ASC facility shall:

1. ensure the facility's continual compliance and conformity with all relevant federal, state, local and municipal laws and regulations;

2. ensure that the facility is adequately funded and fiscally sound;

3. review and approve the facility's annual budget;

4. designate a person to act as the administrator and delegate sufficient authority to this person to manage the day-to-day operations of the facility;

5. annually evaluate the administrator's performance;

6. have the authority to dismiss the administrator;

7. formulate and annually review, in consultation with the administrator, written policies and procedures concerning the facility's philosophy, goals, current services, personnel practices, job descriptions, fiscal management, contracts, and use agreements;

a. the facility's written policies and procedures shall be maintained within the facility and made available to all staff at all times;

8. determine, in accordance with state law, which practitioners are eligible candidates for appointment to the medical staff and make the necessary appointments;

9. ensure and maintain quality of care;

10. ensure that surgical or invasive procedures shall not be performed in areas other than the operating room or other designated and approved treatment rooms;

11. meet with designated representatives of the department whenever required to do so; and

12. inform the department, or its designee, prior to initiating any substantial changes in the services provided by the facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4529. Policy and Procedures

A. An ASC facility, through collaboration by the administrator, medical staff, director of nursing, pharmacist, and any other professional person deemed appropriate by the facility, shall develop, implement and maintain written policies and procedures governing all services rendered at

the facility. The facility shall comply with all federal and state laws, rules and regulations in the development and implementation of its policies and procedures.

B. All policies and procedures shall be reviewed at least annually and revised as needed.

C. Direct care and medical staff shall have access to information concerning patients that is necessary for effective performance of the employee's assigned tasks.

D. The facility shall have written policies and procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released.

E. The facility shall allow designated representatives of the department, in the performance of their mandated duties, to:

1. inspect all aspects of a facility's operations which directly or indirectly impact patients; and

2. interview any physician, staff member, or patient.

F. A facility shall make any required information or records, and any information reasonably related to assessment of compliance with these provisions, available to the department.

G. An ASC facility shall, upon request by the department, make available the legal ownership documents, use agreements and any other legal contracts or agreements in place.

H. The facility shall have written policies and procedures approved by the owner or governing body, which must be implemented and followed, that address at a minimum the following:

1. confidentiality and confidentiality agreements;

2. security of files;

3. publicity and marketing, including the prohibition of illegal or coercive inducement, solicitation and kickbacks;

4. personnel;

5. patient rights;

6. grievance procedures;

7. emergency preparedness;

8. abuse and neglect;

9. incidents and accidents, including medical emergencies;

10. universal precautions;

11. documentation; and

12. admission and discharge procedures.

I. An ASC facility shall have written personnel policies, which must be implemented and followed, that include:

1. written job descriptions for each staff position, including volunteers;

2. policies which provide for staff, upon offer of employment, to have a health assessment as defined by the facility and in accordance with Office of Public Health guidelines;

3. policies which verify that all physicians, clinic employees, including contracted personnel and personnel practicing under a use agreement, prior to, and at the time of employment and annually thereafter, shall be free of tuberculosis in a communicable state, in accordance with current Center for Disease control (CDC) and OPH recommendations;

4. an employee grievance procedure;

5. abuse reporting procedures that require all employees to report any incidents of abuse or mistreatment,

whether that abuse or mistreatment is done by another staff member, a family member, a patient or any other person; and

6. a written policy to prevent discrimination.

J. The facility shall maintain, in force at all times, the requirements for financial viability under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:2131-41.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter C. Admissions, Transfers and Discharges

§4531. Admissions and Assessments

A. Each ASC facility shall have written admission and assessment policies and criteria.

B. An individual or entity that enters into a use agreement with a licensed ASC facility shall be required to adhere to all of the provisions of this Section.

C. An ASC facility shall ensure that each patient has the appropriate pre-surgical and post-surgical assessments completed.

D. Not more than 30 days prior to the date of the scheduled surgery, each patient shall have a comprehensive medical history and physical assessment completed by a physician or other qualified professional practitioner in accordance with applicable state health and safety laws, facility policies, and standards of practice.

E. The history and physical assessment prior to surgery shall specify that the patient is cleared for surgery in an ambulatory setting and is required on all patients regardless of whether the patient is referred for surgery on the same day that the referral is made and the referring physician has indicated that it is medically necessary for the patient to have the surgery on the same day.

F. Upon admission, each patient shall have a pre-surgical assessment completed by a physician or other qualified professional practitioner. The pre-surgical assessment shall include, at a minimum:

1. an updated medical record entry documenting an examination for any changes in the patient's condition since completion of the most recently documented medical history and physical assessment; and

2. documentation of any allergies to drugs and biological agents.

G. The patient's medical history and physical assessment shall be placed in the patient's medical record prior to the surgical procedure.

H. The patient's post-surgical condition shall be assessed and documented in the medical record by a physician, other qualified practitioner, or a registered nurse (RN) with, at a minimum, the required post-operative care experience in accordance with applicable state health and safety laws, facility policies, and standards of practice.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4533. Transfer Agreements and Patient Transfers

A. The ASC facility shall attempt to secure a written transfer agreement with at least one hospital in the community. A transfer agreement shall serve as evidence of a procedure whereby patients can be transferred to a hospital should an emergency arise which would necessitate hospital admission. If the hospital refuses to cooperate, the facility

will maintain documented evidence of its attempt to acquire such an agreement.

1. If a written transfer agreement is established with a hospital in the community, medical staff at the facility shall still be required to adhere to the provisions of §4533.B and C.

2. If the facility is not able to secure a written transfer agreement, the facility's compliance with §4533.C shall substantiate the facility's capability to obtain hospital care for a patient if the need arises.

B. Each member of the medical staff of the ASC facility, including physicians who practice under a use agreement, shall be a member in good standing on the medical staff of at least one hospital in the community and that hospital shall be currently licensed by the department. Members of the ASC medical staff shall be granted surgical privileges compatible with privileges granted by the hospital for that physician.

C. The admitting physician of the ASC facility shall be responsible for effecting the safe and immediate transfer of patients from the facility to a hospital when, in his/her opinion, hospital care is indicated.

D. The facility is responsible for developing written policies and procedures for the safe transfer of patients and coordination of admission, when necessary, into an inpatient facility. The written policy shall include, but is not limited to:

1. identification of the ASC personnel who shall be responsible for the coordination of admission into an inpatient facility;

2. procedures for securing inpatient services; and

3. procedures for the procurement of pertinent and necessary copies of the patient's medical record that will be sent with the transferring patient so that the information may be included in the patient's inpatient medical record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4535. Discharges

A. Each ASC facility shall have written discharge policies and procedures. The written description of discharge policies shall be provided to the department upon request, and made available to the patient or his/her legal representative. The facility shall ensure that all elements of the discharge requirements are completed.

B. Any individual or entity that enters into a use agreement with a licensed ASC facility shall be required to adhere to all of the provisions of this Section.

C. The post-surgical needs of each patient shall be addressed and included in the discharge notes.

D. Upon discharge, the ASC facility shall:

1. provide each patient with written discharge instructions;

2. provide each patient with any overnight supplies the patient may need, excluding medications;

3. make the follow-up appointment with the physician, when appropriate; and

4. ensure that all patients are informed, either in advance of their surgical procedure or prior to leaving the ASC, of the following:

a. necessary prescriptions;

b. post-operative instructions; and

c. physician contact information for follow-up care.

E. The facility shall ensure that each patient has a discharge order signed by the physician who performed the surgery or procedure.

F. The facility shall ensure and document that all patients are discharged in the company of a responsible adult, except those patients exempted by the attending physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter D. Service Delivery

§4537. Surgical Services

A. Surgical services shall be well organized and provided in accordance with current acceptable standards of practice adopted from national associations or organizations.

B. Provisions shall be made to separate pediatric patients from adult patients. Private areas should include pre- and post-operative care areas and should allow for parental presence for pediatric patients.

C. The ASC facility shall ensure that the scheduled surgeries do not exceed the capabilities of the surgical suite, including the recovery room.

D. At least one RN trained in the use of emergency equipment and certified in advanced cardiac life support (ACLS) and/or pediatric advanced life support (PALS), if a pediatric patient is present, shall be available whenever there is a patient in the ASC facility.

E. A roster of physicians and other medical practitioners, specifying the surgical privileges of each, shall be kept in the surgical suite and available to all professional staff.

F. Medical staff and approved policies shall define which surgical procedures require a qualified first assistant physician.

1. Assistants at lesser operations may be a registered nurse or surgical technician if the individuals:

- a. have been approved by the medical director and director of nurses;
- b. have sufficient training to properly and adequately assist in such procedures; and
- c. are acting within the scope of practice of their respective licensing board.

G. An operating room register shall be accurately maintained and kept up-to-date and complete. This register shall be maintained for a five year period. The register shall include, at a minimum, the:

1. patient's complete name;
2. patient's ASC identification number;
3. date of the surgery; and
4. type of surgery performed.

H. A registered nurse shall be assigned to and directly responsible for the recovery area. There shall be adequate nurses assigned to the recovery room to meet the nursing needs of patients in recovery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4539. Anesthesia Services

A. Anesthesia services shall be provided in a well organized manner under the direction of an anesthesiologist or supervising operating room physician who is currently

licensed and in good standing with the Louisiana State Board of Medical Examiners.

B. Anesthesia services shall be mandatory when surgical services are provided.

C. Anesthesia services and/or conscious sedation shall be administered by practitioners with appropriate clinical privileges obtained through a mechanism that assures that each practitioner provides only those services for which they have been licensed, trained and determined to be competent to administer anesthesia and/or conscious sedation within the scope of their practice.

D. Anesthesia and conscious sedation may be administered by the following practitioners who are qualified to administer anesthesia under state law and within the scope of their practice:

1. anesthesiologists;
2. doctors of medicine or osteopathy;
3. dentists or oral surgeons;
4. podiatrists;
5. certified registered nurse anesthetists licensed by the Louisiana State Board of Nursing who are under the supervision of the operating room practitioner or an anesthesiologist who is immediately available if needed as defined in the medical staff bylaws; and
6. registered nurses who are determined qualified and competent to administer moderate sedation and who are under the supervision of the operating room practitioner:

a. an RN is permitted to administer conscious sedation only when administering minimal or moderate sedation.

E. The practitioner administering the anesthesia and/or conscious sedation shall be present throughout its administration and available to the patient until the patient is under the care of post-anesthesia professional staff.

F. If anesthesia services are provided under the direction of the operating physician, the facility shall have a board-certified anesthesiologist available on a consultant basis to:

1. develop, review and approve the policies and procedures of the anesthesia program;
2. make recommendations to and oversee the anesthesia program;
3. conduct peer review of the practitioner(s) rendering anesthesia services; and
4. provide consultations regarding day-to-day activities when necessary.

G. The ASC facility shall develop effective policies and procedures which are approved including, but not limited to:

1. staff privileges of anesthesiologists;
2. delineation of pre-anesthesia and post-anesthesia responsibilities;
3. the qualifications, responsibilities, and supervision required of all personnel who administer anesthesia;
4. patient consent for anesthesia;
5. infection control measures;
6. safety practices in all anesthetizing areas;
7. protocol for supportive life functions, e.g., cardiac and respiratory emergencies;
8. reporting requirements;
9. documentation requirements;
10. inspection and maintenance reports on all supplies and equipment used in anesthesia; and
11. trace gas reports.

H. Anesthesia policies shall ensure that the following are provided for each patient:

1. a pre-anesthesia evaluation performed and recorded immediately prior to surgery to evaluate the risk of anesthesia and of the procedure to be performed by an individual qualified to administer anesthesia;

2. an intra-operative anesthesia record that records monitoring of the patient during anesthesia and documentation of at least the following:

a. prior to induction of the anesthesia, all anesthesia drugs and equipment to be used have been checked and are immediately available and are determined to be functional by the practitioner who is to administer the anesthetic;

b. dosages of each drug used, including the total dosages of all drugs and agents used;

c. type and amount of all fluid(s) administered, including blood and blood products;

d. estimated blood loss;

e. technique(s) used;

f. unusual events during the anesthesia period;

g. the status of the patient at the conclusion of anesthesia; and

h. a post-anesthesia report written prior to discharge of the patient by the individual who administers the anesthesia or another fully qualified practitioner within the anesthesia department; and

3. policies developed, approved, and implemented that define minimal, moderate, and deep sedation and the method of determining the sedation status of the patient, how the sedation is to be carried out, who is to be present while the patient is under anesthesia, and what body systems are to be monitored and equipment to be used with each type of anesthesia administered.

I. Anesthesia policies and procedures shall be developed and approved for all invasive procedures including, but not limited to, percutaneous aspirations and biopsies, cardiac and vascular catheterization, and endoscopies.

J. The facility shall adopt a dependable, individualized patient identification system for all patients who:

1. receive general, spinal, or other types of anesthesia; and

2. undergo surgery or other invasive procedures when receiving general, spinal, or other major regional anesthesia and/or intravenous, intramuscular, or inhalation sedation/analgesia, including conscious sedation, that, in the manner used in the ASC, may result in the loss of the patient's protective reflexes.

K. The ASC facility shall develop, approve, and implement policies and procedures to ensure that the following requirements are met for each patient undergoing:

1. general anesthesia/total intravenous anesthesia:

a. the use of an anesthesia machine that provides the availability and use of safety devices including, but not limited to:

i. an oxygen analyzer;

ii. a pressure and disconnect alarm;

iii. a pin-index safety system;

iv. a gas-scavenging system; and

v. an oxygen pressure interlock system;

b. continuous monitoring of the patient's temperature and vital signs, as well as the continuous use of:

i. an electrocardiogram (EKG/ECG);

ii. a pulse oximeter monitor;

iii. an end tidal carbon dioxide volume monitor; and

iv. a peripheral nerve stimulator monitor;

2. monitored anesthesia care (MAC):

a. monitored anesthesia care includes the monitoring of the patient by an anesthesia professional. Indications for MAC depend on the nature of the procedure, the patient's clinical condition, and/or the potential need to convert to a general or regional anesthetic. Deep sedation/analgesia is included in MAC;

b. equipment sufficient to maintain the patient's airway and ventilatory function shall be immediately available and in the operating room where the procedure is being performed;

c. continuous monitoring of the patient's vital signs and temperature as well as continuous use of an EKG/ECG and pulse oximeter monitor; and

d. monitoring by the practitioner who administers the anesthetic;

3. moderate sedation;

a. policies and procedures shall be developed, approved, and implemented by the medical staff as to the need for pre-operative cardiac and pulmonary assessments of patients prior to being administered moderate sedation;

b. policies and procedures shall be developed, approved, and implemented as to what category of staff member and qualifications are required to be considered capable of administering and monitoring a patient undergoing moderate sedation. There shall be a minimum requirement of an ACLS registered nurse, designated as their only function, to monitor the patient who is under moderate sedation;

c. policies and procedures shall be developed, approved, and implemented in accordance with manufacturer's guidelines for the equipment and medications to be used to administer moderate sedation;

d. policies and procedures shall be developed, approved, and implemented as stipulated under the current licensing boards for patients undergoing moderate sedation. The patient under moderate sedation shall be monitored for blood pressure, respiratory rate, oxygen saturation, cardiac rate and rhythm and level of consciousness. This information shall be recorded at least every five minutes during the therapeutic, diagnostic or surgical procedure and, at a minimum, every fifteen minutes during the recovery period or more frequently as deemed appropriate by the authorized prescriber; and

e. the facility shall define in policy and procedures whether the use of reversal agents is to be considered an adverse patient event;

4. regional anesthesia (major nerve blocks);

a. equipment sufficient to maintain the patient's airway and to convert the case to another form of anesthesia shall be immediately available and in the operating room where the procedure is being performed;

b. continuous monitoring of the patient's vital signs and temperature, as well as the continuous use of an EKG/ECG and pulse oximeter monitor;

c. monitoring by the practitioner who administers the regional anesthetic;

5. local anesthesia (infiltration or topical);

- a. continuous monitoring of the patient's vital signs and temperature as well as the continuous use of an EKG/ECG and pulse oximeter monitor; and
- b. local anesthesia, interpreted to mean those anesthetizing agents administered by needle and affecting a very small localized area may be administered by the treating physician.

L. Patients shall be kept in the recovery room until assessed by a qualified anesthesia professional as being adequately reacted from anesthesia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4541. Radiology Services

A. All ASC facilities shall provide, either directly or by contract, radiology services commensurate with the needs of the facility and to meet the needs of the patients being served.

B. A qualified full-time, part-time or consulting radiologist shall supervise the ionizing radiology services and shall interpret only those radiologic tests that are determined by the medical staff to require a radiologist's specialized knowledge.

1. A radiologist is a doctor of medicine or osteopathy who is qualified by education and experience in radiology.

C. Radiological determinations made by the physician within 72 hours prior to admission shall be acceptable if documented by the physician on the patient's medical record and the determinations conform to the medical staff bylaws and rules and regulations of the center.

D. All radiological determinations shall be in writing and the original shall be a part of the patient's chart.

E. When radiology services are provided by the facility directly, at a minimum, the following criteria shall be met.

1. The ASC facility shall comply with periodic inspections of equipment and testing for radiation hazards, and shall promptly correct any identified problems.

2. Radiologic services shall be provided in an area of sufficient size and arrangement to provide for the safety of personnel and patients.

3. Radiologic services shall be supervised by a qualified radiologist on either a full-time, part-time, or consulting basis. The radiologist shall have clinical privileges delineated by the medical staff.

4. Radiologic reports shall be signed by the practitioner who reads and interprets the reports.

5. The facility shall adopt written policies and procedures to ensure that radiologic services are rendered in a manner which provides for the safety and health of patients and ASC personnel. At a minimum, the policies and procedures shall cover the following:

- a. shielding for patients and personnel;
- b. storage, use and disposal of radioactive materials;
- c. documented periodic inspection of equipment and handling of identified hazards;
- d. documented periodic checks by exposure meters or test badges on all personnel working around radiological equipment which shall also include knowledge of exposure readings at other places of employment;
- e. radiologic services provided on the orders of practitioners with clinical privileges or other practitioners

authorized by the medical staff and the governing body to order the service;

f. managing medical emergencies in the radiologic department; and

g. methods for identifying pregnant patients.

6. Only personnel who are registered and/or licensed in the appropriate radiologic technology modality or category by the Louisiana State Radiologic Technology Board of Examiners and designated as qualified by the medical staff may use the radiologic equipment and administer procedures under the direction of a physician.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4543. Laboratory Services

A. The facility shall either provide a clinical laboratory directly or make contractual arrangements with a laboratory certified in accordance with the Clinical Laboratory Improvement Amendments to perform services commensurate with the needs of the facility.

B. Contractual arrangements for laboratory services shall be deemed as meeting the requirements of this Section so long as those arrangements contain written policies and procedures defining the scope of services.

C. When laboratory services are provided directly by the center, the services shall be performed by a qualified and/or licensed person with documented training and experience to supervise the testing. The facility shall have sufficient numbers of licensed clinical laboratory scientists and supportive technical staff to perform the tests required of the clinical laboratory services.

D. Written laboratory policies and procedures shall be developed and implemented for all laboratory services provided directly by the center. Policies shall define "stat" labs and the time lines for processing "stat" labs.

E. Written reports shall be made a part of the patient's medical record.

F. The laboratory will be of sufficient size and adequately equipped to perform the necessary services of the center.

G. Documentation shall be maintained for preventive maintenance and quality control programs governing all types of analyses performed in the laboratory.

H. The ASC shall make provisions for the immediate pathological examination of tissue specimens by a pathologist, if applicable. The pathology report shall be made part of the patient's medical record.

I. Handling of Blood and Blood Products

1. Written policies and procedures shall be developed and implemented by the ASC relative to the use of blood and blood products.

2. If an ASC facility determines that blood and blood products shall be utilized, the ASC shall provide for the procurement, safekeeping and transfusion of the blood and blood products so that it is readily available.

3. The administration of blood shall be monitored to detect any adverse reaction as soon as it occurs. Prompt investigation of the cause of an adverse reaction shall be instituted.

4. If the ASC regularly uses the services of an outside blood bank, the ASC shall have a written agreement with the blood bank whereby the ASC is promptly notified by the

blood bank of blood or blood products that have been determined at increased risk of transmitting HIV.

5. The ASC shall have a system in place which is defined in a "look back" policy and procedure for appropriate action to take when notified that blood or blood products that the ASC has received are at increased risk of transmitting HIV. The look back policy shall include, but not be limited to:

- a. quarantine of the contaminated products;
- b. documented notification to the patient or legal representative and the patient's physician; and
- c. the safe and sanitary disposal of blood and blood products not suitable for distribution.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4545. Pharmaceutical Services

A. The center shall provide pharmacy services commensurate with the needs of the center and in conformity with state and federal laws. Pharmacy services may be provided directly by the ASC or under a contractual agreement as long as all regulatory requirements are met by the ASC.

B. All centers shall have a Controlled Dangerous Substance license issued by the Louisiana Board of Pharmacy and a Drug Enforcement Agency (DEA) license allowing for the ordering, storage, dispensing and delivery of controlled substances to patients.

C. The pharmacy or drug room shall be under the supervision of a registered pharmacist who may serve full time, part time, or on a consultant basis.

D. When the center provides for a pharmacy, there shall be a current permit issued by the Louisiana Board of Pharmacy. The director of the pharmacy shall maintain complete, current, and accurate records of all drug transactions by the pharmacy.

E. Current and accurate records shall be maintained on the receipt, distribution, and dispensing of all scheduled drugs in such a manner as to facilitate complete accounting for the handling of these controlled substances.

F. Dispensing of prescription legend or controlled substance drugs directly to the public or patient by vending machines is prohibited.

G. Medications are to be dispensed only upon written or oral orders from a licensed physician. All oral orders shall be taken by a qualified professional.

H. If there is no pharmacy in the center, then prescription drugs shall be obtained by a contractual arrangement with a registered pharmacist to meet the needs of the patients.

I. The pharmacist shall assist the center in the development of policies and procedures to:

1. address the distribution, storage, and handling of drugs;
2. monitor drug and medication-related activities; and
3. immediately notify the director of nurses to return drugs to the pharmacy or contracted pharmacist for proper disposition in the event of a drug recall.

J. The pharmacist shall assist the center with drug administration errors, adverse drug reactions, and incompatibilities of medications, and shall report data relative to these issues to the quality assessment performance improvement committee.

K. The pharmacist shall assist the center in developing a formulary of medications that will be available for immediate patient use.

L. The pharmacist shall ensure that medication and supplies are on-site at all times and immediately available for the management of malignant hyperthermia, where applicable, based upon the type and level of anesthesia delivered and all other anesthesia-related complications.

M. The consultant pharmacist shall provide consultation on a monthly basis to the center. The consultations shall be documented in writing showing the date, amount of time spent, subjects reviewed and recommendations made.

N. All drug errors, adverse drug reactions and incompatibilities of medications shall be entered into the patient's medical record.

O. The center shall provide for a drug administration storage area which allows for the proper storage, safeguarding and distribution of drugs. All drug cabinets or drug storage areas at the nursing station(s) are to be constructed and organized to ensure proper handling and safeguard against access and removal by unauthorized personnel. All drug cabinets or drug storage areas are to be kept clean, in good repair, and are to be inspected each month by a registered pharmacist. Compartments appropriately marked shall be provided for the storage of poisons and external use drugs and biological, separate from internal and injectable medications.

P. All drug storage areas shall have proper controls for ventilation, lighting, and temperature. Proper documentation shall be maintained relative to routine monitoring of temperature controls.

Q. Drugs and biologicals that require refrigeration shall be stored separately from food, beverages, blood, and laboratory specimens.

R. Locked areas that maintain medications, including controlled substances, shall conform to state and federal laws and the center's policies and procedures.

S. Unit dose systems shall include on each unit dose the name of the drug, strength of the drug, lot and control number or equivalent, and expiration date.

T. Outdated, mislabeled or otherwise unusable drugs and biologicals shall:

1. be separated from useable stock;
2. not be available for patient use or other use; and
3. be returned to an authorized agency for credit or destroyed according to current state and/or federal laws as applicable.

U. Abuses and losses of controlled substances shall be reported to the individual responsible for pharmaceutical services, the chief executive officer or Administrator, the director of nurses, the Louisiana Board of Pharmacy, and to the Regional DEA office, as appropriate.

V. Any medications administered to a patient shall be administered only as ordered by a physician and shall have documentation entered into the patient's medical record of the name of the drug, amount, route, and the date and time administered, and any adverse reactions to medications.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:37:

§4547. Stereotactic Radiosurgery Services

A. Ambulatory surgical centers operated primarily for the purpose of offering stereotactic radiosurgery by use of a gamma knife or similar neurosurgical tool are exempt from the following requirements:

1. having a minimum of two operating rooms and one post-anesthesia recovery room within the facility;
2. caseload shall not exceed the capabilities of the surgical suite including the recovery room;
3. the surgical area shall be located within the facility as to be removed from the general lines of traffic of both visitors and other facility personnel; and
4. the following Guidelines for Design and Construction of Health Care Facilities requirements:
 - a. scrub station(s) shall be provided directly adjacent to the entrance to each operating room;
 - b. a scrub station may serve two operating rooms if it is located directly adjacent to the entrances to both; and
 - c. scrub stations shall be arranged to minimize splatter on nearby personnel or supply carts.

B. The afore-mentioned exemptions do not apply to ASC facilities performing surgical procedures in conjunction with stereotactic radiosurgery.

C. These facilities shall be responsible for compliance with these licensing standards and any applicable state and federal laws, rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter E. Facility Responsibilities

§4549. General Provisions

A. ASC facilities shall comply and show proof of compliance with all relevant standards, regulations and requirement established by state, local and municipal regulatory bodies. It is the facility's responsibility to secure the necessary approvals from the following entities:

1. Health Standards Section;
2. Office of Public Health;
3. Office of State Fire Marshal;
4. city fire department, if applicable; and
5. the applicable local governing authority (e.g., zoning, building department or permit office).

B. The administrator or person authorized to act on behalf of the administrator shall be accessible to facility staff or designated representatives of the department at all times.

C. An ASC facility shall have qualified staff sufficient in number to meet the needs of patients and to ensure adequate provision of services.

D. The facility shall develop an orientation program for all employees of sufficient scope and duration to inform the individual about his/her responsibilities, how to fulfill them, review of policies and procedures, job descriptions, and competency evaluations and performance expectations. An orientation program and competency evaluation and/or job expectations of assigned or reassigned duties shall be conducted prior to any assignments or reassignments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4551. Staffing Requirements

A. Administrative Staff. The following administrative staff is required for all ASC facilities:

1. a qualified administrator at each licensed geographic location who shall meet the qualifications as established in these provisions; and
2. other administrative staff as necessary to operate the facility and to properly safeguard the health, safety and welfare of the patients receiving services.

B. Administrator/Director

1. Each facility shall have a qualified administrator/director who is an on-site employee and is responsible for the day-to-day management, supervision and operation of the facility. The administrator shall be employed on a full-time basis, as defined for all facility employees. The facility shall be required to provide written verification of the hours worked by an administrator.

2. Any current ASC administrator employed by a licensed and certified ASC facility, at the time these licensing provisions are adopted and become effective, shall be deemed to meet the qualifications of the position of administrator as long as the individual holds his/her current position. If the individual leaves their current position, he/she shall be required to meet the qualifications stated in these licensing provisions to be re-employed into such a position.

3. The administrator shall meet the following qualifications:

- a. possess a college degree;
- b. have three years of previous work experience involving administrative duties in a healthcare facility; and
- c. possess a current administrator certification from a nationally recognized and accredited organization.

4. An RN shall meet the following qualifications to hold the position of administrator:

- a. possess a diploma, associate's degree or bachelor's degree in nursing;
- b. maintain a current and unrestricted Louisiana RN license;
- c. have at least three years of management experience; and
- d. possess a current administration certification from a nationally recognized and accredited organization.

5. The administrator and the director of nursing shall not be the same person.

6. Changes in administrator shall be reported to the department within three working days.

C. Medical Staff

1. The ASC shall have an organized medical staff, including any physician who practices under a use agreement.

2. All medical staff shall be accountable to the governing body for the quality of all medical and surgical care provided to patients and for the ethical and professional practices of its members.

3. Members of the medical staff shall be legally and professionally qualified for the positions to which they are appointed and for the performance of privileges granted.

4. The medical staff shall develop, adopt, and implement bylaws and rules for self-governing of the professional activity of its members. The medical staff

bylaws shall be maintained within the facility. The bylaws and rules shall contain provisions for at least the following:

a. developing the structure of the medical staff, including allied health professionals and categories of membership;

b. developing and implementing a mechanism to review credentials, at least every two years, and to delineate and recommend approval for individual privileges;

c. developing and implementing a mechanism to ensure that all medical staff possess current and unrestricted Louisiana licenses and that each member of the medical staff is in good standing with their respective licensing board;

d. recommendations to the governing body for membership to the medical staff with initial appointments and reappointments not to exceed two years;

e. developing and implementing a mechanism for suspension and/or termination of membership to the medical staff;

f. developing and implementing a mechanism for fair hearings and appellate reviews for both potential (new) applicants and current members of the medical staff;

g. developing and implementing a process, criteria and frequency for review and evaluation of past performance of its individual members which shall include monitoring and evaluation of the quality of patient care provided by each individual;

h. the election of officers for the ensuing year;

i. the appointment of committees as deemed appropriate; and

j. reviewing and making recommendations for revisions to all policy and procedures at least annually.

5. Medical staff shall meet at least semi-annually. One of these meetings shall be designated as the official annual meeting. A record of attendance and minutes of all medical staff meetings shall be maintained within the facility.

6. A physician shall remain within the ASC until all patients have reacted and are determined stabilized.

7. The patient's attending surgeon, or designated on-call physician, shall be available by phone for consultation and evaluation of the patient until the patient is discharged from the facility.

8. Each patient admitted to the facility shall be under the professional care of a member of the ASC's medical staff who shall assess, supervise, and evaluate the care of the patient.

9. Credentialing files for each physician who provides services to patients in the ASC facility shall be kept current and maintained within the facility at all times.

D. Nursing Staff

1. There shall be an organized nursing service department, including a plan of administrative authority with written delineation of responsibilities and duties for each category of nursing personnel.

2. A qualified registered nurse shall be designated in writing to direct the nursing service department. The RN shall not hold the position of administrator while designated as the director of nursing. The director of nursing shall:

a. have a current, unrestricted Louisiana RN license;

b. be in good standing with the Louisiana State Board of Nursing; and

c. shall have a minimum of three years of prior surgical nursing experience.

3. Changes in the director of nurses position shall be reported in writing to the department within three business days of the change on the appropriate form designated by the department.

4. Nursing care policies and procedures shall be in writing, formally approved, reviewed annually, and revised as needed, and consistent with accepted nursing standards of practice. Policies and procedures shall be developed and implemented for all nursing service procedures rendered in the facility.

5. There shall be an adequate number of all categories of nursing personnel on duty to meet the needs of the patients.

6. All professional nurses employed, contracted, or working under a use agreement with the facility shall have a current, unrestricted and valid Louisiana license. Nonprofessional personnel employed, contracted, or working under a use agreement and performing nursing services shall be under the supervision of a registered nurse.

7. There shall be at least one registered nurse with ACLS certification and at least one registered nurse with PALS certification, if a pediatric population is served, on duty at any time there is a patient in the center.

8. There shall be one RN who supervises the surgical suite and is experienced and determined competent in the management of surgical services.

9. A qualified registered nurse shall perform circulating duties for each surgical procedure performed in the facility.

10. Licensed practical nurses and operating room technicians may perform scrub functions under the supervision of a registered nurse.

11. There shall be an RN responsible for the post-surgical care of the patient. If there are no other surgical cases being performed, the RN who was assigned to the operating room can be the RN responsible for the post-surgical care of the patient. There shall be one other person in the post surgical care area to assist the RN until all patients have been discharged from the facility.

12. A formalized program on in-service training shall be developed for all categories of nursing personnel and shall include contracted employees and those working under a use agreement. Training is required on a monthly basis related to required job skills.

a. Documentation of the monthly in-service training shall be maintained on-site in the facility's files. Documentation shall include the:

i. training content;

ii. date and time of the training;

iii. names and signatures of those in attendance;

and

iv. name of the presenter.

E. General Personnel Requirements

1. All physicians and facility employees, including contracted personnel and personnel practicing under a use agreement, shall meet and comply with these personnel requirements.

2. All physicians and facility employees, including contracted personnel and personnel practicing under a use

agreement, prior to and at the time of employment and annually thereafter, shall be verified to be free of tuberculosis in a communicable state in accordance with the facility's policies and procedures and current CDC and OPH recommendations.

3. All nonprofessional staff involved in direct patient care and/or services shall be under the supervision of a qualified professional employee or staff member.

4. A personnel file shall be maintained within the facility on every employee, including contracted employees and personnel providing services under a use agreement. Policies and procedures shall be developed to determine the contents of each personnel file. All personnel records shall include the following items, at a minimum:

- a. an application;
- b. current verification of professional licensure;
- c. health care screenings as defined by the facility;
- d. orientation and competency verification, where applicable;
- e. annual performance evaluations; and
- f. any other screenings required of new applicants by state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4553. Medical Records

A. Each ASC facility shall make provisions for securing medical records of all media types. The identified area shall be located to maintain confidentiality of records and shall be either restricted to staff movement or remote from treatment and public areas.

B. All records shall be protected from loss or damage of any kind.

C. Storage areas shall be provided for forms or documents used to create medical records.

D. If medical records are kept only in a hard copy format, the ASC facility shall have a room located within the facility which shall provide for the proper storage, protection, and security for all medical records and documents.

E. The facility shall develop a unique medical record for each patient. Records may exist in hard copy, electronic format, or a combination thereof.

F. Facilities that enter into a use agreement shall integrate the medical records of patients into the medical records of the licensed ASC and shall comply with all requirements of this Section.

G. The facility shall ensure the confidentiality of patient records, including information in a computerized medical record system, in accordance with the Health Insurance Portability and Accountability Act (HIPAA) Regulations and any state laws and regulations which provide a more stringent standard of confidentiality than the HIPAA privacy regulations.

1. If computerized records are used, the facility shall develop:

- a. a back-up system for when the system is not operable to be able to retrieve medical record information that may be critical;
- b. safeguards to prevent unauthorized use and access to information; and

c. safeguards to prevent alterations of electronic records.

H. A medical record shall be maintained for every patient admitted and treated in the facility, and the medical record cannot become part of any other medical record associated with another entity.

I. The medical records shall be under the custody of the ASC facility and maintained in their original, microfilmed, or similarly reproduced form for a minimum period of 10 years from the date a patient is discharged, pursuant to R.S. 40:2144(F)(1). The facility shall provide a means to view or reproduce the record in whatever format it is stored.

J. Medical records may be removed from the premises for computerized scanning for the purpose of storage. Contracts entered into, for the specific purpose of scanning at a location other than the facility, shall include provisions addressing how:

1. the medical record will be secured from loss or theft or destruction by water, fire, etc; and
2. confidentiality will be maintained.

K. Medical records may be stored off-site provided the facility complies with the following.

1. The off-site storage shall follow the licensing requirements regarding the confidentiality and security of the records.

2. The medical records can be retrieved within one hour upon request.

3. The medical records shall not be stored in an off-site location until an 18 month period has lapsed since the patient was last treated in the facility.

L. The following data shall be included as part of each patient's basic medical record:

1. unique patient identification;
2. admission and discharge dates;
3. medical and social history;
4. physical examination notes in accordance with medical staff bylaws, policies and procedures;
5. chief complaint or diagnosis;
6. physician's orders;
7. clinical laboratory report(s);
8. pathology report(s), when appropriate;
9. radiological report(s), when appropriate;
10. consultation report(s), when appropriate;
11. medial and surgical treatment regimen;
12. physician progress notes;
13. nurses' records of care provided and medications administered;
14. authorizations, consents or releases;
15. operative report;
16. anesthesia record to include:
 - a. type of anesthesia used;
 - b. medication administered;
 - c. person administering the anesthesia; and post-anesthesia report;
17. name of the surgeon, name of any assistants, and nursing personnel (scrub and circulator etc.);
18. start and end time of the surgery;
19. a properly executed consent for surgery and anesthesia that includes the:
 - a. name of the patient;
 - b. patient identification number;

c. name of the procedure or operation being performed;

d. reasonable and foreseeable risks and benefits;

e. name of the practitioner who will perform the procedure;

f. signature of patient or legal guardian or individual designated as having power of attorney for medical decisions on behalf of the patient;

g. date and time the consent was obtained; and

h. signature and professional discipline of the person witnessing the consent;

20. special procedures report(s);

21. patient education and discharge instructions;

22. a discharge summary, including:

a. the nature of the services provided in an ambulatory surgical center will permit the inclusion of physician progress notes and discharge notes in one summary; and

23. a copy of the death certificate and autopsy findings, when appropriate.

M. Each clinical entry and all orders shall be signed by the physician, and shall include the date and time. Clinical entries and any observations made by nursing personnel shall be signed by the professional nurse and shall include the date and time.

1. If electronic signatures are used, the facility shall develop a procedure to assure the confidentiality of each electronic signature, and shall prohibit the improper or unauthorized use of any computer-generated signature.

2. Signature stamps shall not be used.

N. All pertinent observations, treatments and medications given to a patient shall be entered in the nurses' notes as part of the medical record. All other notes relative to specific instructions from the physician shall be recorded.

O. Completion of the medical record shall be the responsibility of the admitting physician.

P. Individual admissions shall be cross-indexed according to diagnosis, surgical procedure and physician.

Q. All entries into the medical record shall be legible and accurately written in ink. The recording person shall sign the record and include the date and time. If a computerized medical records system is used, all entries shall be authenticated, dated and timed, complete, properly filed and retained, accessible, and reproducible.

R. Written orders signed by a member of the medical staff shall be required for all medications and treatments administered to patients, and shall include the date and time. Verbal orders, if given, shall include read-back verification. All verbal orders shall be authenticated by the ordering physician within 48 hours to include the signature of the physician, date, and time.

S. The use of standing orders shall be approved by the medical staff, and the standing orders shall be individualized for each patient. Standing orders shall be approved for use by the medical staff on a yearly basis. If standing orders are utilized, the standing orders shall become part of the medical record and include the patient's name, date of surgery, and shall be authenticated by the ordering physician's signature, date, and time. Any changes to the pre-printed orders shall be initialed by the physician making the entry or change to the pre-printed form. The changes shall be legible, noted in ink, and shall include the date and time.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4555. Other Records and Reports

A. The following indexes, records and registers shall be required of the licensed ASC facility, including any individual or entity that enters into a use agreement:

1. a patient's register;

2. an operating room register;

3. a death register;

4. a daily census report of admissions and discharges;

5. records of reportable diseases as required by state and/or federal regulations;

6. a laboratory log denoting laboratory specimens that are sent to pathology;

a. the laboratory log shall include, at a minimum, the following information:

i. the patient's name;

ii. the specimen site; and

iii. the date the specimen was sent for pathology interpretation; and

7. an implant log, when appropriate.

B. Other statistical information shall be maintained to expedite data gathering for specialized studies and audits.

C. Nothing in this Chapter is intended to preclude the use of automated or centralized computer systems or any other techniques provided the regulations stated herein are met.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4557. Quality Assurance and Performance Improvement

A. The governing body shall ensure that there is an implemented, maintained, effective, written, data-driven, and ongoing program designed to assess and improve the quality of patient care. This program shall include all contracted services and those services provided under a use agreement.

B. The governing body shall ensure that it adequately allocates sufficient staff, time, information systems and training to implement the Quality Assurance and Performance Improvement (QAPI) Program.

C. The facility shall ensure there is a written quality assurance plan for assessing and improving quality of care that is focused on high risk, high volume and problem-prone areas, and which specifies the intervals that the facility shall actively collect data related to the quality indicators. Performance improvement activities shall consider incidence, prevalence and severity of problems and those that can affect health outcomes, patient safety and quality of care. The plan shall describe the system for overseeing and analyzing the effectiveness of monitoring, evaluation, and sustained improvement activities. All services related to patient care, including services furnished by a contractor or under a use agreement, shall be evaluated.

D. Nosocomial infections, patient care problems, surgical services, and other invasive procedures performed in the ASC facility shall be evaluated as they relate to appropriateness of diagnosis and treatment.

E. The services provided by each practitioner with ASC privileges shall be periodically evaluated to determine whether they are of an acceptable level of quality and appropriateness and in accordance with medical staff bylaws/rules and regulations.

F. QAPI shall include monitoring of in-line gases.

G. The QAPI program shall monitor, identify, and develop a plan for reduction of medication errors and adverse patient events.

H. Corrective actions to problems identified through the QAPI program with on-going monitoring for sustained corrective action shall be documented. All QAPI data shall be documented and remain within the facility. Documentation of staff education and training related to the correction of problems shall be documented.

I. The number and scope of distinct QAPI improvement projects conducted annually shall reflect the scope and complexity of the facility's services and operations.

J. The facility shall document the projects that are being conducted. The documentation, at a minimum, shall include:

1. the reason(s) for implementing the project; and
2. a description of the project's results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter F. Safety, Sanitization and Emergency Preparedness

§4559. General Provisions

A. There shall be policies and procedures, approved and implemented by the medical staff and governing body, that address provisions for:

1. sanitizing, disinfecting, and sterilizing supplies, equipment, and utensils; and
2. the safe use of cleaning supplies and solutions that are to be used in the center and the directions for use, including:
 - a. terminal cleaning of the operating room; and
 - b. cleaning of the operating room between surgical cases.

B. Policies and procedures shall be developed and implemented by the center for the types and numbers of sterilizing equipment and autoclaves to be used in the center in order to meet the surgical needs of the center. Procedures for the proper use of sterilizing equipment for the processing of various materials and supplies shall be in writing, according to manufacturer's recommendations, and readily available to personnel responsible for the sterilizing process. All sterilization monitoring logs shall be maintained within the facility for a minimum of 18 months.

C. All steam sterilizing equipment shall have live bacteriological spore monitoring performed at a frequency according to the manufacturer's instructions. If tests are positive, a system shall be in place to recall supplies.

D. All ethylene oxide sterilizing equipment shall have live bacteriological spore monitoring performed with each load and according to manufacturer's recommendation. There shall be ventilation of the room used for this sterilization to the outside atmosphere. There shall be a system in place to monitor trace gases of ethylene oxide with a working alert system which is tested daily.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4561. Infection Control

A. The facility shall maintain an effective infection control program that seeks to minimize infections and communicable diseases through prevention, investigation, and reporting of infections. This program shall include all contracted services and those services provided under a use agreement.

B. The facility shall provide a functional and sanitary environment for the provision of surgical services by adopting and adhering to professionally acceptable standards of practice. The facility shall have documentation that the infection control program was considered, selected, and implemented based on nationally recognized infection control guidelines.

C. The infection control program shall be under the direction of a designated and qualified professional. The facility shall determine that the individual selected to lead the infection control program has had adequate training in the principles and methods of infection control. The individual shall maintain his/her qualifications through ongoing education and training, which can be demonstrated by participation in infection control courses, or in local and national meetings organized by a nationally recognized professional infection control society.

D. The facility shall develop, with the approval of the medical director and the governing body, policies and procedures for preventing, identifying, reporting, investigating, controlling and immediately implementing corrective actions relative to infections and communicable diseases of patients and personnel. At a minimum, the policies shall address:

1. alcohol based hand rub and hand hygiene;
2. use of all types of gloves;
3. surgical scrub;
4. linen cleaning;
5. waste management;
6. environmental cleaning;
7. reporting, investigating and monitoring of surgical infections;
8. sterilization procedures and processes;
9. single use devices;
10. disinfecting procedures and processes; and
11. breaches of infection control practices.

E. The facility shall have policies and procedures developed and implemented which require immediate reporting, according to the latest criteria established by the Centers for Disease Control, Office of Public Health and the Occupational Safety and Health Administration (OSHA), of the suspected or confirmed diagnosis of a communicable disease.

F. The facility shall maintain an infection control log of incidents related to infections. The log is to be maintained within the facility.

G. Any employee with a personal illness shall report to his/her immediate supervisor and/or director of nursing for possible reassignment or other appropriate action to prevent the disease or illness from spreading to other patients or personnel. Employees with symptoms of illness that have the potential of being communicable (i.e. diarrhea, skin lesions, respiratory symptoms, infections, etc.) shall be either

evaluated by a physician and/or restricted from working with patients during the infectious stage.

H. The facility shall develop a system by which potential complications/infections that develop after discharge of a patient from the facility are reported, investigated, and monitored by the infection control officer.

I. Procedures for isolation techniques shall be written and practiced when applicable.

J. The facility shall have a written and implemented waste management program that identifies and controls wastes and hazardous materials to prevent contamination and the spread of infection within the facility. The program shall comply with all applicable laws and regulations governing wastes and hazardous materials and the safe handling of these materials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4563. Laundry Handling and Sanitation

A. The facility shall be responsible for ensuring the proper handling, cleaning, sanitizing and storage of linen and other washable goods. All linen used in the facility shall be of sufficient quantity to meet the requirements of the patients.

B. Laundry services shall be provided either in-house or through a contracted commercial laundry service.

1. Contracted Laundry Service

a. If laundry service is contracted, there shall be supporting documentation of an initial inspection of the premises where the laundry will be processed in order to assess the cleaning and sanitizing processes that are used by the commercial laundry service.

b. If the contracted linen service moves to a new location, another inspection of the new premises will be required with supporting documentation of the inspection to assess the cleaning and sanitizing processes.

2. In-House Laundry Service

a. If laundry services are provided in-house, policies and procedures shall be developed which stipulate the method of cleaning and sanitizing, and the type of cleaning products to be used to prevent the transmission of infection through the facility's use of these washable goods.

C. Procedures shall be developed for the proper handling and distribution of linens to minimize microbial contamination from surface contact or airborne deposition.

D. Cross contamination of clean and dirty linen shall be prevented. Provisions shall be made for the separation of clean and soiled linen. All contaminated laundry shall be specially handled according to the facility's written protocols and current applicable OSHA and CDC guidelines.

E. For in-house laundry, special cleaning and decontaminating processes shall be used for contaminated linens.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4565. Emergency Preparedness and Emergency Procedures

A. Disaster and emergency plans shall be developed for both internal and external occurrences, including weather related emergencies, local chemical spills, train derailments

etc. Disaster plans shall include provisions for persons with disabilities. Quarterly drills shall be implemented, documented, and evaluated according to the approved facility plans.

B. In the event of a natural disaster or any other unanticipated disaster that forces the sudden closure of an ASC facility for an undetermined period of time, the facility shall notify the department within 24 hours or as soon as possible following the disaster in order to inform the department of the closure and plans for reopening the facility. If the facility is closed due to an extended loss of electricity, water, and/or sewage, the facility shall not reopen until such time as appropriate inspections, as determined by the department, have been made.

C. Each facility shall conduct, document, and evaluate fire drills at least quarterly.

D. Each facility shall post exit signs and diagrams conspicuously through the facility.

E. Each facility shall post emergency telephone numbers by all telephones including, but not limited to, the patient telephone in the waiting area.

F. Flash lights or battery operated lamps for emergency use shall be available for facility personnel and kept in operational condition.

G. Provisions for transfer or isolation of patients with a communicable or contagious disease shall be developed in writing.

H. Each facility shall have at least one RN on-site that is certified in advanced cardiac life support and shall be available whenever a patient is in the facility.

I. The facility shall have the following emergency equipment readily available for use in each operating room and ensure there is sufficient equipment to handle multiple simultaneous emergencies:

1. emergency call system;
2. oxygen;
3. mechanical ventilatory assistance equipment, including:
 - a. airways;
 - b. manual breathing bag; and
 - c. ventilator;
4. cardiac defibrillator;
5. cardiac monitoring equipment;
6. tracheostomy set;
7. laryngoscope and endotracheal tubes;
8. suction equipment; and
9. emergency medical equipment and supplies specified by the medical staff for treatment of all age groups serviced in the ASC.

J. The facility is responsible for:

- a. developing and implementing policies and procedures for the safe emergency transfer of patients;
- b. developing policies that address what types of emergency procedures, equipment, and medications shall be available; and
- c. providing trained staff to sustain the life of the patient prior to the transfer.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

Subchapter G. Physical Environment

§4567. General Requirements

A. An applicant for an ASC facility license shall furnish one complete set of architectural plans and specifications to the entity/office designated by the department to review and approve the facility's architectural plans and the Office of State Fire Marshal.

1. The office designated by the department to review and approve architectural drawings and specifications and the Office of State Fire Marshal shall review and approve the facility's architectural plans before construction is allowed to begin.

2. When the plans and specifications have been fully reviewed and all inspections and investigations have been made, the applicant will be duly notified whether or not the plans for the proposed ambulatory surgical center have been approved.

B. No alterations, other than minor alternations, shall be made to existing facilities without the prior written approval of, and in accordance with, architectural plans and specifications approved in advance by the department, or its designee, and the Office of State Fire Marshal.

C. All new construction, additions, and renovations, other than minor alterations, shall be in accordance with the specific requirements of the Office of State Fire Marshal and the department, or its designee who shall be responsible for the review and approval of architectural plans. Plans and specifications submitted to these offices shall be prepared by or under the direction of a licensed architect and/or a qualified licensed engineer and shall include scaled architectural plans stamped by an architect.

D. All designs and construction shall be in accordance with the current standard plumbing code.

E. Facility within a Facility

1. If more than one health care provider occupies the same building, premises or physical location, all treatment facilities and administrative offices for each health care facility shall be clearly separated from the other by a clearly defined and recognizable boundary.

2. There shall be clearly identifiable and distinguishable signs posted inside the building as well as signs posted on the outside the building for public identity of the facility. Compliance with the provisions of R.S. 40:2007 shall be required.

3. ASC facilities that shall be located within a building that is also occupied by another business(es) and/or other healthcare facility shall have all licensed spaces and rooms of the ASC contiguous to each other and defined by cognizable boundaries.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4569. General Appearance and Space Requirements

A. The facility shall be constructed, arranged and maintained to ensure the safety and well being of the patient and the general public.

B. The facility shall have a minimum of two operating rooms and a minimum of one post-anesthesia recovery room to meet the needs of the patients being served and/or as required in the current edition of the *Guidelines for Design and Construction of Health Care Facilities*. In addition to

the operating rooms and recovery rooms, the facility may also have one or more procedure/treatment rooms.

C. The location of the operating room within the facility, and the access to it, shall conform to accepted standards of practice, particularly for infection control, with respect to the movement of people, equipment, and supplies in and out of the operating room.

1. The operating room's temperature and humidity shall be monitored and maintained in accordance with accepted standards of practice.

D. The facility shall have a separate waiting area sufficient in size to provide adequate seating space for family members and/or guests of the patient.

E. The ASC premises shall meet the following requirements including, but not limited to:

1. a sign shall be posted on the exterior of the facility's premises that can be viewed by the public which shall contain, at a minimum, the "doing business as" name of the facility that is on the facility's license issued by the department;

2. signs or notices shall be prominently posted in the facility stipulating that smoking is prohibited in all areas of the facility;

3. the environment of the facility shall reflect good housekeeping, including dust control measures. Policies and procedures shall be developed for maintaining a clean and sanitary environment at all times;

4. there shall be sufficient amount of storage space throughout the facility for all supplies and equipment. Storage space shall be located away from foot traffic, provide for the safe separation of items, and prevent overhead and floor contamination;

5. all patient care equipment shall be clean and in good repair. Appropriate inspections of patient care equipment shall be maintained on a routine and regular basis and according to manufacturer's recommendations;

6. toilet and dressing areas shall be provided for surgical and other personnel to include, but not be limited to:

a. dressing rooms;

b. toilet and lavatory facilities including soap and towels; and

c. closets or lockers to secure the personal belongings of the staff;

7. adequate toilet facilities shall be provided for patients and/or family which maintain proper ventilation, properly functioning toilet(s) in each toilet facility, hot and cold water in all lavatories, soap, and towels;

8. a private area shall be provided for patients to change from street clothing into hospital gowns and to prepare for surgery;

9. provisions shall be made for securing patient's personal effects;

10. all doors to the outside shall open outward and be provided with self-closing devices;

11. all stairways, ramps and elevators shall be provided with nonskid floor surfaces and all stairways shall have handrails on both sides;

12. an effective and on-going pest control program shall be maintained to ensure the facility is free of insects and rodents;

13. proper ventilation, lighting and temperature controls shall be maintained in all areas of the facility;

14. garbage shall be stored in covered containers of a capacity and type approved by the Office of Public Health, and disposal of such wastes shall be in a manner approved by the Office of Public Health;

15. each ASC building shall provide for a covered entrance, well marked, and illuminated for drop off and/or pick up of patients before and after surgery. The covered entrance shall extend to provide full overhead coverage of the entire transporting automobile and/or ambulance to permit protected transfer of patients. Vehicles in the loading area should not block or restrict movement of other vehicles in the drive or parking areas immediately adjacent to the facility;

16. the facility shall provide a separate room for meetings between medical staff and family members;

17. patient and family parking spaces shall be provided adjacent to the ASC building that are in direct proportion to the number of pre- and post-operative stations;

18. adequate staff and physician parking spaces shall be available.

F. Surgical Area

1. The surgical area shall be comprised of a minimum of two operating rooms and one post-anesthesia recovery room within the facility and as stipulated in the current edition of the *Guidelines for Design and Construction of Health Care Facilities*.

2. The surgical area shall be located in a segregated and restricted section of the facility and be removed from general lines of traffic of both visitors and other ASC personnel, and from other departments so as to prevent traffic through them.

3. The surgical area shall be defined by the following unrestricted, semi-restricted and restricted areas.

a. Unrestricted Area. This area shall include a central control point established to monitor the entrance of patients, personnel and materials into the restricted areas. Street clothes are permitted in this area, and traffic is not limited.

b. Semi-Restricted Area. This area shall include the peripheral support areas of the surgical suite which includes storage areas for clean and sterile supplies, work areas for storage and processing of instruments, and corridors leading to the restricted areas of the surgical suite. Staff attire appropriate for the semi-restricted area shall be defined in policy. Traffic in this area is limited to authorized personnel and patients.

c. Restricted Area. This area shall include operating and procedure rooms, the clean core, and scrub sink areas. Surgical attire and hair coverings are required. Masks are required where open sterile supplies or scrubbed persons may be located.

4. The surgical suite areas shall be appropriately equipped to safely provide for the needs of the patient and in accordance with accepted clinical practices. The surgical suite shall consist of a clear and unobstructed floor area to accommodate the equipment and personnel required, allowing for aseptic technique. Only one surgical case can be performed in a surgical suite at a time.

5. There shall be scrub-up facilities in the surgical suite which provide hot and cold running water and equipped with knee, foot, or elbow faucet controls.

6. Medical gas storage provisions shall be made for the medical gases used in the facility. Adequate space for supply and storage, including space for reserve cylinders shall be provided. Provisions shall be made for the secure storage of all cylinders to prevent tipping and falling. Policies and procedures shall be developed for testing of medical gases.

7. Equipment storage room(s) shall be provided for equipment and supplies used in the surgical suite(s). Equipment storage room(s) shall be located within the semi-restricted area.

a. Stretchers shall be stored in an area that is convenient for use and out of the direct line of traffic.

8. There shall be emergency resuscitation equipment and supplies including a manual defibrillator (non AED) and tracheostomy set available to both surgery and recovery areas.

a. The numbers of crash carts in the facility should be based on current acceptable standards of practice adopted from a national association or organization and defined in policies and procedures, and shall be immediately available to both surgery and recovery areas.

G. Recovery Area

1. Rooms for post-anesthesia recovery in an ASC facility shall be provided in accordance with the functional program and sufficient in size and equipment to efficiently and safely provide for the needs of the staff and patients. There shall be at least one separate post-anesthesia recovery room within the facility.

2. Provisions for patient privacy such as cubicle curtains shall be made.

3. The recovery area shall be accessible directly from the semi-restricted area and adjacent to the surgical suite.

4. A nurse's station(s) shall be located within the recovery area and shall be centrally located with complete visualization of all patients in the recovery area.

a. Each nurse's station shall be equipped with the following items:

i. desk space;

ii. chart racks;

iii. telephone(s); and

iv. cupboard, closet or room designed for the storage and preparation of patient medications.

b. A double locked storage shall be provided for controlled substances. Separate areas shall be provided for the separation of internal and external drugs and medications. This area shall be well lighted with temperature controls and accessible only to authorized personnel. A refrigerator for pharmaceuticals shall be provided and monitored regularly for compliance with temperature controls. A sink with running hot and cold water and sufficient work area shall also be provided in the area of drug preparation.

5. Hand washing station(s) shall be available in the recovery area.

6. Compliance with the square footage requirements as stated in the current version of the *Guidelines for Design and Construction of Health Care Facilities* shall be required of the recovery area.

H. There shall be sufficient space between and around stretchers/gurneys and between fixed surfaces and

stretchers/gurneys to allow for nursing and physician access to each patient.

I. General and individual office(s) for business transactions, records and administrative and professional staff shall be provided within the facility. Interview space for private interviews relating to admission shall be provided within the facility.

AUTHORITY NOTE: Promulgated in accordance with R. S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§4571. Stereotactic Radiosurgery

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2141.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 28:2536 (December 2002), repealed by the Department of Health and Hospitals, Bureau of Health Services Financing, LR:37:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by assuring the safe operation of ambulatory surgical centers that enter into use agreements.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, November 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Ambulatory Surgical Centers
Minimum Licensing Standards**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will not have a programmatic fiscal impact to the state other than the cost of promulgation for FY 10-11. It is anticipated that \$9,676 (SGF) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will have no effect on revenue collections since the licensing fees currently in place will continue to be collected.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This rule proposes to amend the provisions governing the licensing standards for ambulatory surgical centers to establish provisions which allow licensed facilities to enter into use agreements, and to clarify and reorganize these provisions in a clear and concise manner in the Louisiana Administrative Code. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to ambulatory surgical centers for FY 10-11, FY 11-12 and FY 12-13 since the required licensing fees have not changed.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Don Gregory
Medicaid Director
1010#042

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

CommunityCARE Program
Primary Care Provider Referral Exemptions
(LAC 50:I.2911)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.2911 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amended the provisions governing the CommunityCARE Program to establish the program as an optional statewide covered service under the Medicaid State Plan instead of a waiver service, and to provide for the exclusion of certain additional Medicaid recipients from mandatory participation in the program (*Louisiana Register*, Volume 32, Number 3). The department promulgated an Emergency Rule which amended the provisions governing the CommunityCARE Program to exempt urgent care facilities and retail convenience clinics from the requirement to obtain a written referral/authorization from the primary care provider in order to receive reimbursement for services rendered to Medicaid recipients who are enrolled in CommunityCARE. In addition, these provisions were amended to include the exemption of a service that had been inadvertently omitted from the previous list of exempted services (*Louisiana Register*, Volume 36, Number 7). This proposed Rule is being promulgated to continue the provisions of the July 1, 2010 Emergency Rule.

**Title 50
PUBLIC HEALTH—MEDICAL ASSISTANCE**

Part I. Administration

Subpart 3. Medicaid Coordinated Care

Chapter 29. CommunityCARE

§2911. PCP Referral/Authorization

A. The following Medicaid covered services do not require written referral/authorization by the recipient's PCP:

1. - 18. ...

19. services provided through the Office of Public Health's Women, Infants, and Children (WIC) program;

20. services provided by school based health centers to recipients age 10 and older;

21. dentures for adults; and

22. services provided by urgent care facilities and retail convenience clinics.

a. These providers furnish walk-in, non-routine care as an alternative to emergency department care when access to primary care services is not readily available to meet the health needs of the recipient.

b. Urgent care facilities and retail convenience clinics must provide medical record notes of the visit to the recipient's PCP within 48 hours of the visit.

B. - B.1. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 29:909 (June 2003), amended LR 32:405 (March 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have a positive impact on family functioning, stability, and autonomy as described in R.S. 49:972 by creating more flexibility in access to services.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, November 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: CommunityCARE Program—Primary
Care Provider Referral Exemptions**

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO
STATE OR LOCAL GOVERNMENT UNITS (Summary)**

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 10-11. It is anticipated that \$328 (\$164 SGF and \$164 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE
OR LOCAL GOVERNMENTAL UNITS (Summary)**

It is anticipated that the implementation of this proposed rule will not affect revenue collections other than the federal share of the promulgation costs for FY 10-11. It is anticipated that \$164 will be collected in FY 10-11 for the federal share of the expense for promulgation of this proposed rule and the final rule.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO
DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL
GROUPS (Summary)**

This rule, which continues the provisions of the July 1, 2010 emergency rule, proposes to amend the provisions governing the CommunityCARE Program to exempt urgent care facilities and retail convenience clinics from the requirement to obtain a written referral/authorization from the primary care provider in order to receive reimbursement for services rendered to Medicaid recipients who are enrolled in CommunityCARE. This Rule will also incorporate the exemption of a service (dentures for adults) that had been inadvertently omitted from the previous list of exempted services. It is anticipated that implementation of this proposed rule will have no effect on persons or non-governmental groups in FY 10-11, FY 11-12 and FY 12-13.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

This rule has no known effect on competition and employment.

Don Gregory
Medicaid Director
1010#043

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Estate Recovery (LAC 50:I.8101-8105)

The Department of Health and Hospitals, Bureau of Health Services Financing proposes to amend LAC 50:I.8101-8105 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing estate recovery to exclude the disregarded resources from the estate recovery process when Medicaid recipients are insured

under a qualified long-term care insurance policy (*Louisiana Register*, Volume 35, Number 9). The department now proposes to amend the provisions governing estate recovery to revise and clarify these provisions and exempt recovery of Medicare cost-sharing benefits paid under the Medicaid State Plan in order to comply with federal regulations.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part I. Administration

Subpart 9. Recovery

Chapter 81. Estate Recovery

§8101. Definitions

Authorized Representative—the executor or succession attorney if a succession has been opened. If there is no executor or succession attorney, an heir, family member or the decedent's last authorized representative listed on the decedent's most recent Medicaid application.

* * *

Estate—the gross (total value) estate of the deceased as determined by Louisiana succession law and any interest in any property, whether movable or immovable, corporeal or incorporeal.

* * *

Homestead—consists of a residence occupied by the owner and the land on which the residence is located, including any building and appurtenances located thereon, and any contiguous tracts up to a total of five acres if the residence is within a municipality, or up to a total of 200 acres of land if the residence is not located in a municipality. This same homestead shall be the individual's home which was occupied by the recipient immediately prior to the recipient's admission to a long term care facility or when the recipient began receiving home and community-based services.

Individual's Home—the primary place of residence of the deceased recipient which was occupied by the recipient immediately prior to the recipient's admission to a long term care facility or when the recipient began receiving home and community-based services.

* * *

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:801 (April 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§8103. General Provisions

A. Medicaid estate recovery is not a condition of eligibility. The applicant/recipient shall be informed at the time of application/redetermination that federal law and regulations mandate estate recovery action by the states and that medical assistance claims paid by the department may be subject to estate recovery. A notice of estate recovery is provided to the applicant as part of the application process.

B. Recovery Limits

1. Recovery can only be made after the death of the recipient's surviving spouse, if any, and only at the time when the recipient has no surviving child under age 21, or a child who is blind or disabled as defined in Section 1614 of the Social Security Act. Recovery may be deferred until the death of the surviving spouse or children reach the age of 21 or are no longer blind or disabled.

2. Recovery cannot be made for Medicare cost-sharing benefits (i.e., Part A and Part B premiums, deductibles, coinsurance, and co-payments) paid under the Medicaid State Plan.

C. Recovery Adjustments

1. ...

2. Recovery shall be waived if it will cause an undue hardship on any child of the deceased recipient.

3. The recovery may be lessened by reducing the estate value in consideration of reasonable and necessary documented expenses incurred by the decedent's heirs to maintain the homestead during the period in which the recipient was in a long term care facility or received home and community-based services, if the homestead is part of the estate.

D. Recovery Notice

1. The department will seek recovery for medical assistance from the decedent's estate. The family or heirs will be given advance notice of the proposed action and the time frame in which they have the opportunity to apply for an undue hardship waiver and/or dispute the recovery.

2. A notice of Medicaid estate recovery will be served on the executor, authorized representative or succession attorney of the decedent's estate. If there is no executor, authorized representative or succession attorney, the notice will be sent to the family or the heirs. The notice shall specify the following information:

a. the deceased recipient's name and Medicaid identification number;

b. - c. ...

d. the dates of services associated with the recovery action and the estimated amount of the department's claim, i.e., amount to be recovered against the recipient's estate;

e. ...

f. the authorized representative's right to a hearing;

g. the method by which the authorized representative may obtain a hearing; and

h. ...

3. The notice shall request that copies of all succession pleadings filed in connection with the succession of the decedent, including any judgment(s) of possession be provided to the department.

a. In the event no succession has been judicially opened, the department is to be advised as to when such documents will be available and/or when the succession is expected to be opened.

E. Recovery Privilege

1. The claim of the department shall have a privilege on the total estate with a priority equivalent to an expense of last illness as prescribed in Civil Code Article 3252 et seq.

2. The department may file a proof of claim based on its privilege.

F. Recovery Exclusions

1. If an individual was insured under a qualifying long-term care insurance partnership policy and received Medicaid benefits as a result of resources being disregarded in the eligibility determination, the department shall not seek adjustment or recovery from the individual's estate for the amount of the resources disregarded.

a. The resource disregard is determined on a 1:1 ratio. For each \$1 of a qualifying long-term care insurance partnership policy benefit, \$1 of countable resources is

disregarded or excluded during the eligibility determination process.

2. The department shall not seek recovery or adjustment from an individual's estate for the amount of Medicare cost-sharing benefits paid on behalf of an individual that was enrolled in any one of the following Medicaid programs:

a. Qualified Medicare Beneficiaries (QMB);

i. including individuals who are classified as QMB Plus and receive full Medicaid coverage in addition to QMB benefits;

b. Specified Low-Income Beneficiaries (SLMB);

i. including individuals who are classified as SLMB Plus and receive full Medicaid coverage in addition to SLMB benefits;

c. Qualified Disabled and Working Individuals (QDWI); or

d. Qualified Individuals (QI).

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:801 (April 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:1891 (September 2009), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

§8105. Administrative Review

A. Informal Review and Administrative Appeal of Agency Decision. Through the informal review and administrative process, any authorized representative may request that the agency review and reconsider any or all aspects of a particular recovery matter in which he/she is involved.

1. If the authorized representative disagrees with the estimated amount and/or the basis for the estate recovery and is requesting an undue hardship waiver, the authorized representative must submit the following information to the department within 30 days of receipt of the estate recovery notice:

a. a written request for an informal review which states the basis for the disagreement(s) along with all of the supporting documentation to substantiate the disagreement; or

b. a completed notarized hardship waiver application along with all of the documentation needed to support the request for a hardship waiver.

2. If the authorized representative wishes to obtain a copy of the claims history upon which the recovery amount is based, the HIPPA authorization form enclosed with the recovery notice must be completed and returned to the department within five days of receipt of the recovery notice.

3. The written request for an informal review and/or hardship waiver must be post marked or delivered to the department on or before the 30th day from receipt of the estate recovery notice.

4. If the written request for an informal review and/or the completed notarized hardship waiver application along

with all supporting documentation is not received within the 30 day period, the action set out in the estate recovery notice shall be the final agency decision.

5. If the written request for an informal review and/or the completed notarized hardship waiver application along with all supporting documentation is received timely, the department shall conduct an informal review of the estate recovery decision.

a. The informal review may be conducted in-person, via phone or other electronic media and/or through a review of the documentation.

b. Following the informal review, the department will issue a written notice to the authorized representative of the reason(s) for its findings and the amount owed by the estate.

B. The authorized representative shall have 30 days from the date of mailing of the estate recovery notice to seek an administrative appeal with the appropriate state administrative tribunal.

C. In addition to the provisions of this Section, any aggrieved party shall have the administrative appeal rights available pursuant to the Administrative Procedure Act.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:802 (April 2004), amended by the Department of Health and Hospitals, Bureau of Health Services Financing, LR 37:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, or autonomy as described in R.S. 49:972.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, November 25, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Estate Recovery

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will be cost neutral to the state other than the cost of promulgation for FY 10-11 since the increase in expenditures for the Elderly and Disabled Adults (EDA) Waiver directly correlates to a reduction in expenditures for long-term personal care services (LT-PCS). EDA Waiver recipients will no longer be eligible for LT-PCS as a result of adding personal assistance services to the waiver. It is anticipated that \$1,230 (\$615 SGF and \$615 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 10-11. It is anticipated that \$615 will be collected in FY 10-11 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the October 20, 2010 Emergency Rule, amends the provisions governing the EDA Waiver to: 1) establish personal assistance services as a covered service under the waiver; 2) clarify the provisions governing responsible representatives and discharge criteria; 3) adopt provisions to address requests for services; 4) revise the provisions governing restrictions for paid direct care staff and the place of service; and 5) revise the provisions governing provider responsibilities (approximately 4,046 recipients). It is anticipated that implementation of this proposed rule will not have economic costs or benefits to directly affected persons or non-governmental groups for FY 10-11, FY 11-12 and FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Don Gregory
Medicaid Director
1010#044

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Home and Community-Based Services Waivers
Elderly and Disabled Adults
Personal Assistance Services
(LAC 50:XXI.8101, 8105, 8107, 8301,
8503, 8901, and 8903)

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services proposes to amend LAC 50:XXI.8101, §8105, §8107, §8301, §8503, §8901, and §8903 in the Medical

Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

To assure compliance with federal requirements regarding the cost-effectiveness of the Elderly and Disabled Adults (EDA) Waiver Program, the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services amended the provisions governing the EDA Waiver to: 1) change the allocation priority of waiver opportunities; 2) implement uniform needs-based assessments to determine the level of support needs and establish an individual cost cap based on need; 3) clarify the service cap for environmental accessibility adaptation services; 4) add shared supports to companion services; and 5) mandate that personal representatives cannot be the paid companion care worker (*Louisiana Register*, Volume 35, Number 11). The department promulgated an Emergency Rule which amended the provisions governing the EDA Waiver to implement a new service that incorporated the current functions of companion services and further clarified the provisions governing responsible representatives and discharge criteria (*Louisiana Register*, Volume 36, Number 6). The July 4, 2010 Emergency Rule also reorganized the provisions governing covered services in a more clear and concise manner in the *Louisiana Administrative Code*. The department will publish an Emergency Rule in the October 20, 2010 edition of the *Louisiana Register* in order to amend the July 4, 2010 Emergency Rule to: 1) adopt provisions that address requests for services; 2) revise the provisions governing the allocation of waiver opportunities and the resource assessment process; 3) clarify the provisions governing restrictions for paid direct care staff and the place of service; and 4) revise the provisions governing provider responsibilities (*Louisiana Register*, Volume 36, Number 10). This proposed Rule is being promulgated to continue the provisions of the October 20, 2010 Emergency Rule.

Title 50

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

**Subpart 7. Elderly and Disabled Adults Waiver
Chapter 81. General Provisions**

§8101. Introduction

A. – B. ...

C. Requests for EDA waiver services shall be accepted from the following individuals:

1. an individual who wants to receive EDA Waiver services;

2. an individual who is legally responsible for a participant who may be in need of EDA Waiver services; or

3. a responsible representative designated by the participant to act on his/her behalf in requesting EDA Waiver services.

D. Each participant who requests EDA Waiver services has the option to designate a responsible representative. For purposes of these provisions, a responsible representative shall be defined as the person designated by the participant to act on his/her behalf in the process of accessing and/or maintaining EDA Waiver services.

1. The appropriate form authorized by OAAS shall be used to designate a responsible representative.

a. The written designation of a responsible representative does not give legal authority for that individual to independently handle the participant's business without his/her involvement.

b. The written designation is valid until revoked by the participant. To revoke the written designation, the revocation must be submitted in writing to OAAS or its designee.

2. The functions of a responsible representative are to:

a. assist and represent the participant in the assessment, care plan development and service delivery processes; and

b. to aid the participant in obtaining all necessary documentation for these processes.

3. The participant's responsible representative shall not be reimbursed for providing services to the participant.

4. An owner or employee of a EDA Waiver services agency may not be designated as a responsible representative for any recipient who receives services from an agency he/she owns or is employed by.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1698 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department Of Health and Hospitals, Office of Aging and Adult Services, LR 34:1029 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2447 (November 2009), amended LR 37:

§8105. Programmatic Allocation of Waiver Opportunities

A. ...

B. EDA Waiver opportunities shall be offered to individuals on the registry according to the following needs-based priority groups. The following groups shall have priority for EDA Waiver opportunities, in the order listed:

1. individuals with substantiated cases of abuse or neglect with Adult Protective Services or Elderly Protective Services who, absent EDA Waiver services, would require institutional placement to prevent further abuse and neglect;

2. individuals diagnosed with Amyotrophic Lateral Sclerosis (ALS);

3. individuals presently residing in nursing facilities for 90 or more continuous days;

a. - e.NOTE. Repealed.

4. individuals who are not presently receiving home and community-based services under another approved waiver program including, but not limited to the:

a. Adult Day Health Care Waiver;

b. New Opportunities Waiver;

c. Supports Waiver; and

d. Residential Options Waiver;

5. all other eligible individuals on the Request for Services Registry (RFSR), by date of first request for services.

C. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:1030 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2447 (November 2009), amended LR 37:

§8107. Resource Assessment Process

A. - C.1. ...

2. The applicant/recipient may qualify for an increase in the annual services budget amount upon showing that:

a. one or more answers are incorrect as recorded on the MDS-HC (with the exception of the answers in Sections AA, BB, A, and R of the MDS-HC); or

C.2.b. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2447 (November 2009), amended LR 37:

Chapter 83. Covered Services

§8301. Service Descriptions

A. Support Coordination is services that will assist recipients in gaining access to necessary waiver and State Plan services, as well as needed social, educational and other services, regardless of the funding source for these services. Support coordinators shall be responsible for ongoing monitoring of the provision of services included in the recipient's approved CPOC.

1. - 5.e. Repealed.

B. Transition intensive support coordination is services that will assist recipients who are currently residing in nursing facilities in gaining access to necessary waiver and State Plan services, as well as needed social, educational and other services, regardless of the funding source for these services. Support coordinators will initiate and oversee the process for assessment and reassessment, as well as be responsible for ongoing monitoring of the provision of services included in the recipient's approved CPOC.

C. Environmental accessibility adaptation is necessary physical adaptations made to the home to ensure the health, safety, and welfare of the recipient, or enable the recipient to function with greater independence in the home. Without these necessary adaptations, the recipient would require institutionalization. These services must be provided in accordance with state and local laws governing licensure and/or certification.

1. There is a lifetime cap of \$3,000 per recipient for this service.

D. Personal Emergency Response System (PERS). This is an electronic device which enables the recipient to secure help in an emergency. PERS services are limited to specific recipients.

E. Personal Assistance Services (PAS) provides assistance to participants in performing the activities of daily living and household chores necessary to maintain the home in a clean, sanitary and safe environment, based on their CPOC.

1. PAS may also include the following services based on the CPOC:

a. protective supervision provided solely to assure the health and welfare of a participant with cognitive/memory impairment and/or physical weakness;

b. supervising or assisting, as approved in the CPOC, a participant with functional impairments with health related tasks (any health related procedures governed under the Nurse Practice Act) if he/she is unable to do so without supports according to applicable delegation/medication administration;

c. supervising or assisting the participant, who has no supports and is unable to do so without supports or has no available natural supports, to socialize in his/her community according to the desired outcomes included in the CPOC;

d. escort services, which are used to accompany the individual outside of the home during the performance of tasks related to instrumental activities of daily living and health maintenance, and to provide the same assistance as would be rendered in the home; and

e. extension of therapy services.

i. For purposes of these provisions, extension of therapy services may include instances where licensed practitioners may provide instruction to the worker so he/she is able to better assist the participant.

ii. Licensed therapists may choose to instruct the workers on the proper way to assist the participant in follow-up therapy sessions. This assistance and support provides reinforcement of instruction and aids in the rehabilitative process.

iii. A registered nurse may instruct a worker to perform basic interventions with participants that would increase and optimize functional abilities for maximum independence in performing activities of daily living, such as range of motion exercises.

2. PAS is provided in the participant's home unless the participant requests to receive PAS outside of the home.

a. PAS shall not duplicate the services provided to a participant who resides in an assisted living facility.

b. The participant must be present while PAS services are being provided in the home.

3. Service Restrictions

a. PAS shall not be provided during the same designated hours or time period that a participant receives adult day health care services.

b. Participants who receive PAS cannot receive long-term personal care services.

4. PAS services may be provided by one worker for up to three waiver participants who live together and who have a common direct service provider.

a. Waiver participants may share PAS service staff when it is agreed to by the participants and health, safety and welfare can be assured for each individual.

b. Shared PAS services will be reflected on the plan of care of each participant.

5. The following individuals are prohibited from being reimbursed for providing services to a participant:

a. the participant's spouse;

b. the participant's curator;

c. the participant's tutor;

d. the participant's legal guardian;

e. the participant's responsible representative; or

f. the person to whom the participant has given representative and mandate authority (also known as power of attorney).

6. Participants are not permitted to receive PAS while living in a home or property owned, operated, or controlled by a provider of services who is not related by blood or marriage to the participant.

F. Transition Services. These services assist an individual, who has been approved for an EDA Waiver opportunity, to leave a nursing facility and return to live in the community.

1. Service Limit. Funds are available one time per lifetime for specific items as approved in the recipient's CPOC.

G. Adult Day Health Care (ADHC). ADHC services are a planned, diverse daily program of individual services and group activities structured to enhance the recipient's physical functioning and to provide mental stimulation. Services are furnished for five or more hours per day (exclusive of transportation time to and from the ADHC facility) on a regularly scheduled basis for one or more days per week, or as specified in the plan of care. An adult day health care facility shall, at a minimum, furnish the following services:

1. individualized training or assistance with the activities of daily living (toileting, grooming, eating, ambulation, etc.);

2. health and nutrition counseling;

3. an individualized, daily exercise program;

4. an individualized, goal directed recreation program;

5. daily health education;

6. medical care management;

7. one nutritionally balanced hot meal and two snacks served each day;

8. nursing services that include the following individualized health services:

a. monitoring vital signs appropriate to the diagnosis and medication regimen of each recipient no less frequently than monthly;

b. administering medications and treatments in accordance with physicians' orders;

c. monitoring self-administration of medications while the recipient is at the ADHC facility; and

NOTE: All nursing services shall be provided in accordance with acceptable professional practice standards.

d. transportation to and from the facility.

NOTE: If transportation services that are prescribed in any participant's approved CPOC are not provided by the ADHC facility, the facility's reimbursement rate shall be reduced accordingly.

H. Providers of EDA waiver services must have a valid, current license for their respective service program, if applicable, and furnish services in accordance with the applicable licensing and/or certification requirements.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1245 (July 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 35:2448 (November 2009), amended LR 37:

Chapter 85. Admission and Discharge Criteria

§8503. Admission Denial or Discharge Criteria

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

1. - 7. ...

8. It is not cost effective or appropriate to serve the individual in the EDA waiver.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1699 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1246 (July 2006), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, LR 34:1030 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Chapter 89. Provider Responsibilities

§8901. General Provisions

A. Any provider of services under the EDA waiver shall abide by and adhere to any federal or state laws, rules, policy, procedures, or manuals issued by the department. Failure to do so may result in sanctions.

B. The provider agrees to not request payment unless the participant for whom payment is requested is receiving services in accordance with the EDA Waiver Program provisions.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 30:1700 (August 2004), amended by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:1247 (July 2006), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§8903. Reporting Requirements

A. Support coordination and direct service providers are obligated to report changes to the department that could affect the waiver participant's eligibility including, but not limited to, those changes cited in the denial or discharge criteria.

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

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

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

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that

this proposed Rule will have no impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821-9030. He is responsible for responding to inquiries regarding this proposed Rule.

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning, stability, and autonomy as described in R.S. 49:972.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, November 24, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Home and Community-Based Services Waivers—Elderly and Disabled Adults—Personal Assistance Services

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will be cost neutral to the state other than the cost of promulgation for FY 10-11 since the increase in expenditures for the Elderly and Disabled Adults (EDA) Waiver directly correlates to a reduction in expenditures for long-term personal care services (LT-PCS). EDA Waiver recipients will no longer be eligible for LT-PCS as a result of adding personal assistance services to the waiver. It is anticipated that \$1,230 (\$615 SGF and \$615 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 10-11. It is anticipated that \$615 will be collected in FY 10-11 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule, which continues the provisions of the October 20, 2010 Emergency Rule, amends the provisions governing the EDA Waiver to: 1) establish personal assistance services as a covered service under the waiver; 2) clarify the provisions governing responsible representatives and discharge criteria; 3) adopt provisions to address requests for services; 4) revise the provisions governing restrictions for paid direct care staff and the place of service; and 5) revise the provisions governing provider responsibilities (approximately 4,046

recipients). It is anticipated that implementation of this proposed rule will not have economic costs or benefits to directly affected persons or non-governmental groups for FY 10-11, FY 11-12 and FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Don Gregory
Medicaid Director
1010#045

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

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

The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services propose to amend LAC 50:II.10154 in the Medical Assistance Program as authorized by R.S. 36:254 and pursuant to Title XIX of the Social Security Act. This proposed Rule is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

The Department of Health and Hospitals, Office of Aging and Adult Services amended the provisions governing the standards for payment for nursing facilities to clarify the provisions governing the level of care determination for nursing facility admissions (*Louisiana Register*, Volume 34, Number 6). The Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services now propose to amend the June 20, 2008 Rule to incorporate provisions governing the pathways of eligibility that are utilized in the level of care determinations for nursing facility admissions.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance Program

Subpart 3. Standards for Payment

Chapter 101. Standards for Payment for Nursing Facilities

Subchapter G. Levels of Care

§10154. Nursing Facility Level of Care Determinations

A. The purpose of the level of care (LOC) determination is to assure that individuals meet the functional and medical necessity requirements for admission to and continued stay in a nursing facility. In addition, the LOC determination process assists persons with long-term or chronic health care needs in making informed decisions and selecting options that meet their needs and reflect their preferences.

B. In order for an individual to meet nursing facility level of care, functional and medical eligibility must be met as set forth and determined by the Office of Aging and Adult Services (OAAS). The functional and medical eligibility process is frequently referred to as the “nursing facility level of care determination.”

1. - 3. Repealed.

C. OAAS shall utilize prescribed screening and assessment tools to gather evaluation data for the purpose of determining whether an individual has met the nursing facility level of care requirements as set forth in this Subchapter.

1. - 2. Repealed.

D. Individuals who are approved by OAAS, or its designee, as having met nursing facility level of care must continue to meet medical and functional eligibility criteria on an ongoing basis.

E. A LOC screening conducted via telephone shall be superseded by a face-to-face Minimum Data Set (MDS) assessment, Minimum Data Set for Home Care (MDS-HC) assessment, or Audit Review LOC determination as determined by OAAS or its designee.

F. If on an audit review or other subsequent face-to-face LOC assessment, the LOC findings are determined to be incorrect, the audit or subsequent face-to-face LOC assessment findings will prevail.

G. The department may require applicants to submit documentation necessary to support the nursing facility level of care determination.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Division of Long Term Supports and Services, LR 32:2083 (November 2006), amended by the Office of Aging and Adult Services, LR 34:1032 (June 2008), amended by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

§10156. Level of Care Pathways

A. Several potential avenues of functional and medical eligibility shall be investigated by OAAS. These avenues are called pathways. The pathways are utilized to ensure consistency, uniformity, and reliability in making nursing facility level of care determinations. In order to meet the nursing facility level of care, an individual must meet eligibility requirements in only one pathway.

B. When specific eligibility criteria are met within a pathway, that pathway is said to have triggered. The Medicaid program defines nursing facility level of care for Medicaid eligible individuals as the care required by individuals who meet or trigger any one of the established level of care pathways described in this Subchapter. The pathways of eligibility focus on information used to determine if an individual has met or triggered a level of care pathway.

C. The level of care pathways elicit specific information, within a specified look-back period, regarding the individual's:

1. functional capabilities;
2. receipt of assistance with activities of daily living (ADL) and instrumental activities of daily living (IADL);
3. current medical treatments and conditions; and
4. other aspects of an individual's life.

D. Activities of Daily Living Pathway

1. The intent of this pathway is to determine the individual's self-care performance in activities of daily living during a specified look-back period (e.g., the last seven days, last three days, etc. from the date the LOC assessment was completed). Consideration will be given to

what the individual actually did for himself or herself and/or how much help was required by family members or others.

2. The ADL Pathway identifies those individuals with a significant loss of independent function measured by the amount of assistance received from another person in the period just prior to the day the LOC assessment was completed.

3. The ADLs for which the LOC assessment elicits information are:

- a. locomotion—moving around in the individual's home;
- b. dressing—how the individual dresses/undresses;
- c. eating—how food is consumed (does not include meal preparation);
- d. bed mobility—moving around while in bed;
- e. transferring—how the individual moves from one surface to another (excludes getting on and off the toilet and getting in and out of the tub/shower);
- f. toileting—includes getting on and off the toilet, wiping, arranging clothing, etc;
- g. personal hygiene (excludes baths/showers); and
- h. bathing (excludes washing of hair and back).

4. Since an individual can vary in ADL performance from day to day, OAAS trained assessors shall capture the total picture of ADL performance over the specified look-back period.

5. In order for an individual to be approved under the ADL Pathway, the individual must score at the:

- a. limited assistance level or greater on toilet use, transferring, or bed mobility; or
- b. extensive assistance level or greater on eating.

E. Cognitive Performance Pathway.

1. This pathway identifies individuals with the following cognitive difficulties:

- a. short term memory which determines the individual's functional capacity to remember recent events;
- b. cognitive skills for daily decision making which determines the individual's actual performance in making everyday decisions about tasks or activities of daily living such as:

- i. planning how to spend his/her day;
 - ii. choosing what to wear; or
 - iii. reliably using canes/walkers or other assistive devices/equipment, if needed;
- c. making self understood which determines the individual's ability to express or communicate requests, needs, opinions, urgent problems, and social conversation, whether in speech, writing, sign language, or a combination of these (includes use of word board or keyboard).

2. In order for an individual to be approved under the Cognitive Performance Pathway, the individual must:

- a. be severely impaired in daily decision making, never or rarely makes decisions;
- b. have a memory problem and daily decision making is moderately impaired. The individual's decisions are consistently poor or unsafe. Cues or supervision is required at all times;
- c. have a memory problem and daily decision making is severely impaired, never or rarely makes decisions;

- d. have a memory problem and is sometimes understood. The individual's ability is limited to making concrete requests;

- e. have a memory problem and is rarely or never understood;

- f. be moderately impaired in daily decision making. The individual's decisions are consistently poor or unsafe. Cues or supervision is required at all times and the individual is usually understood. The individual has difficulty finding words or finishing thoughts and prompting may be required;

- g. be moderately impaired in daily decision making. The individual's decisions are consistently poor or unsafe. Cues or supervision is required at all times. The individual is sometimes understood and his/her ability is limited to making concrete requests;

- h. be moderately impaired in daily decision making. The individual's decisions are consistently poor or unsafe. Cues or supervision is required at all times and the individual is rarely or never understood;

- i. be severely impaired in daily decision making, never or rarely makes decisions. The individual has difficulty finding words or finishing thoughts and prompting may be required;

- j. be severely impaired in daily decision making, never or rarely makes decisions. The individual is sometimes understood and his/her ability is limited to making concrete requests;

- k. be severely impaired in daily decision making, never or rarely makes decisions, and the individual is rarely or never understood;

- l. be minimally impaired in daily decision making. The individual has some difficulty in new situations or his/her decisions are poor. Cues and supervision is required in specific situations only and the individual is sometimes understood. The individual's ability is limited to making concrete requests; or

- m. be minimally impaired in daily decision making. The individual has some difficulty in new situations or his/her decisions are poor. Cues and supervision is required in specific situations only and the individual is rarely or never understood.

F. Physician Involvement Pathway

1. The intent of this pathway is to identify individuals with unstable medical conditions that may be affecting his/her ability to care for himself/herself.

2. Physician visits and physician orders will be investigated for this pathway. Consideration will be given to the physician visits in the last 14 days, excluding emergency room exams, and physician orders in the last 14 days, excluding order renewals without change or hospital inpatient visits.

3. In order for an individual to be approved under the Physician Involvement Pathway, the individual must have:

- a. one day of doctor visits and at least four new order changes within the last 14 days;
- b. at least two days of doctor visits and at least two new order changes within the last 14 days; or
- c. supporting documentation for the specific condition(s) identified and deemed applicable by OAAS. Acceptable documentation may include:

- i. a copy of the physician's orders;
- ii. the home health care plans documenting the diagnosis, treatments and conditions within the designated time frames; or
- iii. the appropriate form designated by OAAS to document the individual's medical status and condition.

4. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

G. Treatments and Conditions Pathway

1. The intent of this pathway is to identify individuals with unstable medical conditions that may be affecting his/her ability to care for himself/herself. The following treatments and conditions shall be investigated for this pathway:

- a. stage 3-4 pressure sores in the last 14 days;
- b. intravenous feedings in the last 7 days;
- c. intravenous medications in the last 14 days;
- d. daily tracheostomy care and ventilator/respiratory suctioning in the last 14 days;
- e. pneumonia in the last 14 days and the individual's associated IADL or ADL needs or restorative nursing care needs;
- f. daily respiratory therapy provided by a qualified profession in the last 14 days;
- g. daily insulin injections with two or more order changes in the last 14 days;
- i. supporting documentation shall be required for the daily insulin usage and the required order changes; and
- h. peritoneal or hemodialysis in the last 14 days.

2. In order for an individual to be approved under the Treatments and Conditions Pathway, the individual must have:

- a. any one of the conditions listed in §15104.G.4.a; and
- b. supporting documentation for the specific condition(s) identified and deemed applicable by OAAS. Acceptable documentation may include:
 - i. a copy of the physician's orders;
 - ii. the home health care plans documenting the diagnosis, treatments and conditions within the designated time frames; or
 - iii. the appropriate form designated by OAAS to document the individual's medical status and condition.

3. This pathway is approved for limited stay/length of service as deemed appropriate by OAAS.

H. Skilled Rehabilitation Therapies Pathway

1. The intent of this pathway is to identify individuals who have received, or are scheduled to receive, at least 45 minutes of physical therapy, occupational therapy, or speech therapy in the last seven days or within seven days from the date the LOC assessment is completed.

2. In order for an individual to be approved under the Skilled Rehabilitation Therapies Pathway, the individual must have:

- a. received at least 45 minutes of active physical therapy, occupational therapy, and/or speech therapy during the last seven days;
- b. at least 45 minutes of active physical therapy, occupational therapy, and/or speech therapy scheduled for the next seven days; or

c. supporting documentation for the specific condition(s) identified and deemed applicable by OAAS. Acceptable documentation may include:

- i. a copy of the physician's orders for the scheduled therapy;
- ii. the home health care plan notes indicating the therapy received during the required look-back period;
- iii. progress notes indicating the physical, occupational, and/or speech therapy received or scheduled;
- iv. nursing facility or hospital discharge plans indicating the therapy received for the required look-back period or therapy scheduled for the required look-forward period; or
- v. the appropriate form designated by OAAS to document the individual's medical status and condition.

I. Behavior Pathway

1. The intent of this pathway is to identify individuals who have experienced repetitive behavioral challenges which have impacted his/her ability to function in the community during the seven day look-back period. The behavior challenges may include:

- a. wandering;
- b. verbally or physically abusive behavior;
- c. socially inappropriate behavior; and
- d. delusions or hallucinations.

2. In order for an individual to be approved under the Behavior Pathway, the individual must have:

- a. exhibited any one of the following behaviors four to six days of the look-back period, but less than daily:
 - i. wandering;
 - ii. verbally abusive;
 - iii. physically abusive;
 - iv. socially inappropriate or disruptive; or
 - v. resisted care;
- b. exhibited any one of the following behaviors daily:
 - i. wandering;
 - ii. verbally abusive;
 - iii. physically abusive;
 - iv. socially inappropriate or disruptive; or
 - v. resisted care; or
- c. experienced delusions or hallucinations within the required look-back period that impacted his/her ability to live independently in the community.

J. Service Dependency Pathway

1. The intent of this pathway is to identify individuals who are currently in a nursing facility or receiving services through the Adult Day Health Care Waiver, the Elderly and Disabled Adult Waiver or receiving long-term personal care services.

2. In order for individuals to be approved under this pathway, the afore-mentioned services must have been approved prior to December 1, 2006 and ongoing services are required in order for the individual to maintain current functional status.

3. There must have been no break in services during this time period.

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

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Bureau of Health Services Financing and the Office of Aging and Adult Services, LR 37:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this proposed Rule on the family has been considered. It is anticipated that this proposed Rule will have no impact on family functioning and autonomy as described in R.S. 49:942.

Public Comments

Interested persons may submit written comments to Don Gregory, Bureau of Health Services Financing, P.O. Box 91030, Baton Rouge, LA 70821—9030. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for Wednesday, November 24, 2010 at 9:30 a.m. in Room 118, Bienville Building, 628 North Fourth Street, Baton Rouge, LA. At that time all interested persons will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce D. Greenstein
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Nursing Facilities—Standards for Payment—Level of Care Determinations

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

It is anticipated that implementation of this proposed rule will have no programmatic fiscal impact to the state other than the cost of promulgation for FY 10-11. It is anticipated that \$1,312 (\$656 SGF and \$656 FED) will be expended in FY 10-11 for the state's administrative expense for promulgation of this proposed rule and the final rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

It is anticipated that the implementation of this proposed rule will not affect federal revenue collections other than the federal share of the promulgation costs for FY 10-11. It is anticipated that \$656 will be collected in FY 10-11 for the federal share of the expense for promulgation of this proposed rule and the final rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

This proposed rule amends the provisions governing the standards for payment for nursing facilities to incorporate the pathways of eligibility that are utilized in the level of care determinations for nursing facility admissions. It is anticipated that implementation of this proposed rule will not have economic costs or benefits to directly affected persons or non-governmental groups for FY 10-11, FY 11-12 and FY 12-13.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This rule has no known effect on competition and employment.

Don Gregory
Medicaid Director
1010#046

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Health and Hospitals Licensed Professional Counselors Board of Examiners

Professional Assistance Program
(LAC 46:LX.Chapter 23)

In accordance with R.S. 49:950 et seq., of the Louisiana Administrative Procedure Act, as well as R.S. 37:1110 and 37:1120, the Licensed Professional Counselors Board of Examiners hereby proposes to amend its existing rules and regulations by adding LAC 46:LX.Chapter 23, relative to the Mental Health Counselor, Licensed Marriage and Family Therapist, and Intern Professional Assistance Program. These revisions are necessary to implement this program.

Specifically, the Licensed Professional Counselors Board of Examiners proposes to adopt new Sections 2301-2315, relative to this program.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LX. Licensed Professional Counselors Board of Examiners

Subpart 2. Professional Standards for Licensed Marriage and Family Therapists

Chapter 23. Mental Health Counselor, Licensed Marriage and Family Therapists and Intern Professional Assistance Program

§2301. Authority

A. The Louisiana Licensed Professional Counselors Board of Examiners recognizes that impairments in the functioning of persons interning, licensed, certified or registered to practice as licensed professional counselors, or licensed marriage and family therapists can affect the competent delivery of mental health counseling and marriage and family therapy, and impair professional judgment.

B. Therefore, in order to safeguard the public health, safety, and welfare of the people of this state, as mandated by R.S. 37:1102 et seq., the Licensed Professional Counselors Board of Examiners establishes the Professional Assistance Program. Authority for such program is contained at R.S. 37:1110 and 37:1120. This program is sometimes referred to hereafter as the "Professional Assistance Program", or "PAP".

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37:1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:

§2303. Purpose and Scope; Immunity

A. The goal of the Professional Assistance Program is to provide for public protection through monitoring and a remedial course of action applicable to licensed professional counselors and licensed marriage and family therapists and interns who are functionally impaired in their ability to safely practice. Impairments include, but are not limited to mental, physical, and addictive disorders or other conditions. The program also supports recovery through preventative measures and allows entrance into the program before harm occurs.

B. A licensed professional counselor or licensed marriage and family therapist or intern may enter the program subsequent to voluntary disclosure of impairment via an initial or renewal application for a credential. When evidence of impairment arises as a possible causative or contributing factor in disciplinary proceedings, the board may offer this program to the subject of those proceedings. If the subject agrees to enter the program, disciplinary proceedings may be suspended pending program completion. If the subject refuses to enter the program, the disciplinary process shall continue. Participation in the program can be voluntary, but may also be required as a prerequisite to continued mental health counseling practice in accordance with the conditions of any consent order, compliance or adjudication hearing. A licensed professional counselor, licensed marriage and family therapist or intern who enters the program may be allowed to maintain his/her credential while in compliance with the requirements of their program, subject to the board's discretion.

C. Professionals who participate in evaluation, monitoring or treatment and who are approved or designated by the board to render these services, as well as Professional Assistance Program committee members and board members, who participate in Professional Assistance Program activities, will be provided immunity. The participating licensed professional counselor or licensed marriage and family therapist or intern will be responsible for executing all required releases of information and authorizations required for the board or its designees to obtain information from any monitor, treatment or service provider concerning the licensed professional counselor or licensed marriage, family therapist or intern's progress and participation in the program, the Professional Assistance Program participant must agree in writing, to grant full immunity to, and hold harmless from any suit or claim, all Professional Assistance Program committee members, board members and those professionals who assist in their evaluation, monitoring, or treatment. This grant of immunity shall extend to all actions by such board members, Professional Assistance Program committee members, or participating professionals acting in good faith in the discharge of their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37: 1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:

§2305. Program Implementation

A. The program shall be administered by the board's Professional Assistance Committee, subject to overall supervision and control by the board. The board may utilize its discretionary authority to require or exclude specific components of this program for participants based on determination of the nature and severity of the impairment. Participation in the Professional Assistance Program may consist of all or part of the following components.

1. The program participant may be required to submit to an assessment relative to the impairment.

a. This assessment will be completed by a licensed mental health professional who is pre-approved by the board.

b. The format and content of this assessment will meet the requirements designated by the board, but will at a minimum contain information concerning:

i. previous inpatient/outpatient treatment episodes;

ii. relapse history;

iii. an assessment of the participant's psychosocial, physical, psychiatric, and other needs, relative to the impairment, and recommendations for future treatment.

c. The participant shall contact the designated mental health professional within 48 hours to schedule an evaluation, which should be scheduled within 72 hours. To the extent practicable, the assessment will then be forwarded to the board by the professional completing the assessment, no later than 72 hours following the completion of the assessment.

2. The participant may be required to submit to ongoing monitoring for a period of up to five years. The beginning date of the monitoring period will be the date upon which a consent order is formally signed by the licensed professional counselor, licensed marriage and family therapist or intern and the board, or the date of the board's official decision to require program participation in the event of an adjudication hearing.

3. During the monitoring period the licensed professional counselor or licensed marriage and family therapist or intern may be required to submit to random drug and/or alcohol screenings as determined appropriate by the board, or other monitoring requirements which are pertinent and relative to the documented impairment.

a. The interval and timing of the required screening will be directed by a monitor who is pre-approved by the board. This monitor will be considered to have been duly selected by the board as its agent for the purposes of directing the required screens.

b. The results and reports of the results of all screens will be submitted to the board before the final business day of the month following the date of the screen.

4. Receipt by the board of any positive, unexplained substance abuse/drug screen or reports of non-compliance or complications relative to the impairment during the monitoring period may result in suspension, revocation, or other appropriate action pertaining to the licensed professional counselor, licensed marriage and family therapist or intern's credentials as determined appropriate by the board.

5. When the impairment is substance-related, the licensed professional counselor or licensed marriage family therapist or intern may be required to attend Twelve Step meetings on a regular basis as determined appropriate by the designated licensed substance abuse professional, and as approved or required by the board, but no less than four times monthly.

a. A pre-approved monthly log must be submitted to and received by the board at least five days after the final business day of the month following completion of the required meetings. It is the licensed professional counselor or licensed marriage and family therapist' or intern's responsibility to ensure that these logs are properly completed and received by the board by the designated date.

b. The log requires documentation of the name of the meeting chairman, and meeting dates and times.

c. Submission of logs will be required for at least one year of program participation, but may be required for any period of time up to and including the entire term of monitoring as determined by the designated licensed substance abuse professional and as approved or required by the board.

6. During the monitoring period for the licensed professional counselor, or licensed marriage and family therapist or intern may be required to participate in professional supervision with a board-approved and designated licensed professional counselor supervisor or licensed marriage and family therapist supervisor at a frequency determined by the board for a period of time up to and including the entire five year period of monitoring.

7. The board, in addition to other conditions, may require that the licensed professional counselor, licensed marriage and family therapist or intern obtain regularly scheduled therapy, at a prescribed interval.

a. The type and interval of therapy may be recommended by the designated pre-approved licensed professional responsible for program monitoring, as approved by the board.

b. The type and interval of therapy may be also required by the board independently.

c. The licensed professional counselor or licensed marriage and family therapist or intern may choose the licensed substance abuse professional or other qualified professional to provide this therapy, subject to board approval.

8. Other requirements for participation in the program may include, but are not limited to, limitations in the scope of the participant's mental health counseling or licensed marriage and family therapy practice, suspension of practice, or voluntary withdrawal from practice for a specific time.

9. In the event that a licensed professional counselor or licensed marriage and family therapist or intern relocates to another jurisdiction, the licensed professional counselor or licensed marriage and family therapist or intern will within five days of relocating be required to either enroll in the other jurisdiction's Professional Assistance Program and have the reports required under the agreement sent to the Louisiana Professional Counselor's Board of Examiners or if the other jurisdiction has no impairment professional program, the licensed professional counselor, or licensed marriage and family therapist or intern will notify the licensing board of that jurisdiction that the licensed professional counselor or licensed marriage and family therapist or intern is impaired and enrolled in the Professional Assistance Program. Should the licensed professional counselor, or licensed marriage and family therapist or intern fail to adhere to this requirement, in addition to being deemed in violation of the program requirements and corresponding consent order or adjudication, the licensed professional counselor, or licensed marriage and family therapist's or intern's credentials will be suspended or revoked.

10. The participating licensed professional counselor, licensed marriage and family therapist or intern shall notify the board office by telephone within 48 hours and in writing within five working days of any changes of the licensed professional counselor or licensed marriage and family therapist or intern's home or work address, telephone number, employment status, employer and/or change in scope or nature practice. The licensed professional counselor or licensed marriage and family therapist or Intern may satisfy the notice requirement by telephone, leaving a voice message on the board's office voicemail at times when the office is closed. A written confirmation from the PAP participant of the phone message is expected within five working days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37:1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:

§2307. Violations

A. Notification of a violation of the terms or conditions of this agreement, consent order or adjudication order may result in the immediate suspension of the individual's licensed professional counselor or licensed marriage and family therapist or intern's credential to practice in the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37:1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:

§2309. Costs and Fees

A. The licensed professional counselor or licensed marriage and family therapist or intern shall be responsible for all fees and costs incurred in complying with the terms of this agreement, including but not limited to therapy, assessments, supervision, drug/alcohol screens, and reproduction of treatment or other records. By agreeing to participate in the Professional Assistance Program, the participant agrees to be solely responsible for all such costs or expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37:1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:

§2311. Acceptance of Terms; Program Agreement

A. The licensed professional counselor, licensed marriage and family therapist or intern must submit to the board an notarized agreement indicating acceptance of the required conditions of participation in the Professional Assistance Program as mandated by the board, along with all initial (or updated) releases or authorizations for the board or its designees to obtain information concerning the participant's participation and progress in the program. Such agreement shall also delineate requirements for release from the program, including but not limited to certification of completion by treatment providers, written evidence of full compliance with the program agreement, and two written reports attesting to the participant's current mental status to be submitted by mental health professionals approved by the

board. The program agreement shall also state that the board may monitor the participant for up to two years following program completion. This agreement and the required release and authorizations must be submitted prior to the issuance of any initial credential or re-issuance of a renewal of a credential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37: 1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:

§2313. Confidentiality

A. The board will, to the full extent permissible, under R.S. 44:4 et seq., maintain an agreement or consent order relating to the licensed professional counselor or licensed marriage family therapist or intern's participation in the Professional Assistance Program as a confidential matter. The board retains the discretion to share information it deems necessary with those persons providing evaluation/assessment, therapy, treatment, supervision, monitoring or drug/alcohol testing or reports. Violation of any terms, conditions, or requirements contained in any consent order, or board decision can result in a loss of the participant's license credentials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37: 1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:

§2315. Recusal

A. Any board members or Professional Assistance Program committee members who participate in any manner in any particular Professional Assistance Program case shall recuse themselves from voting in any subsequent application or disciplinary matter involving the licensed professional counselor, licensed marriage and family therapist, or intern who is the subject of such Professional Assistance Program case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1110 and 37: 1120.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Licensed Professional Counselors Board of Examiners, LR 37:

Family Impact Statement

As required by Act 1138 of the 1999 Regular Session of the Louisiana Legislature, the following Family Impact Statement is submitted to be published with the Notice of Intent in the *Louisiana Register*. A copy of this statement will also be provided to the respective legislative oversight committees.

1. The effect on the stability of the family. Implementation of this proposed Rule will have no effect on the stability of the family. It should improve stability of the family by assisting affected individuals to receive professional help needed.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. Implementation of this proposed Rule will have no effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect in the functioning of the family. Implementation of this proposed Rule will have no effect on the functioning of the family.

4. The effect on family earnings and family budget. Implementation of this proposed Rule will have no effect on family earnings and family budget.

5. The effect on the behavior and personal responsibility of children. Implementation of this proposed Rule will have no effect on the behavior and personal responsibility of children.

6. The ability of the family or a local government to perform the function as contained in the proposed Rule. Implementation of this proposed Rule will have no effect on the ability of the family or a local government to perform this function.

Public Comments

Interested persons may submit written comments on these Rules to Gloria Bockrath, Board Chair, Licensed Professional Counselors Board of Examiners, 8631 Summa Avenue, Suite A, Baton Rouge, LA 70808 until November 10, 2010.

Gloria Bockrath
Board Chair

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Professional Assistance Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be a one time implementation cost of \$1,674.00 in FY 10/11 that includes the cost of promulgating the rule (\$984), legal fees (\$250), forms (\$40) and staff time (\$400). The cost will be absorbed within the budget of the Licensed Professional Counselors (LPC) Board. The LPC Board will participate in the program overseeing and managing participant evaluation, monitoring, and treatment. The Board will not be responsible for funding the program or collecting the fees necessary for the program's operation. Operating costs of the program are to be paid by the program's participants directly to the psychologists, psychiatrists, counselors, drug/alcohol-screening providers, and any other providers whose services are required by the LPC Board. There will be no impact to other states or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local government.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed Rule will establish a comprehensive system to assist mental health professionals whose abilities may be adversely affected through substance use or their own mental health issues.

This measure is intended to steer such individuals into a supervised, structured program to assure that the affected individuals receive the help and support they need to become whole and functional.

The program is designed to serve (1) as an "intervention tool" to deliver professional healthcare services before problems arise, (2) as a voluntary program to allow affected individuals to seek help in a structured environment, while still practicing their profession under close supervision and (3) as an addition to the Board's disciplinary sanctions.

The proposed rule will also provide better protection to the public by providing remedial measures to counselors, therapists

and interns who are experiencing significant problems functioning in their professional capacity.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no estimated effect on competition and employment.

Eddy Boeneke
Executive Director
1010#083

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Definition of Abuse and Sexual Abuse
(LAC 48:XIII.17105)

The Department of Health and Hospitals, Office of Aging and Adult Services, Division of Adult Protective Services proposes to amend LAC 48XIII.17105 under the Adult Protective Services Program as authorized by R.S. 15:1501-1511. This Notice of Intent is promulgated in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

During the 2008 Regular Session of the Louisiana Legislature, the Louisiana Revised Statute which authorizes the Adult Protective Services program (R.S. 14:403.2) was amended and portions of the statute were placed in R.S. 15:1501-511. At the same time, the office of Aging and Adult Services was created within the Department of Health and Hospitals and the Bureau of Protective Services was transferred into that office becoming the Division of Adult Protective Services within that office.

During the 2010 Regular Session of the Louisiana Legislature, R.S. 15:1503(2) was amended and reenacted and R.S. 15:1503(13) was enacted in order to amend the definition of "abuse" and to provide for a definition of "sexual abuse." This Notice of Intent is promulgated to adopt the changes created by the legislation.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 13. Protective Services Agency

Chapter 171. Division of Adult Protective Services

§17105. Definitions

A. For the purposes of this Chapter, the following definitions shall apply:

Abuse—the infliction of physical or mental injury, or actions which may reasonably be expected to inflict physical injury, on an adult by other parties, including but not limited to such means as sexual abuse, abandonment, isolation, exploitation, or extortion of funds or other things of value. In determining whether an injury is sufficient to endanger the health, self-determination, or emotional well-being of the adult, the following criteria shall be considered:

Sexual Abuse—abuse of an adult, when any of the following occur.

a. The adult is forced, or otherwise coerced by a person into sexual activity or contact.

b. The adult is involuntarily exposed to sexually explicit material, sexually explicit language, or sexual activity or contact.

c. The adult lacks the capacity to consent, and a person engages in sexual activity or contact with that adult.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:254, R.S. 14:403.2 and R.S. 15:1501-15:1511

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, Bureau of Protective Services, LR 20:435 (April 1994), amended LR 27:312 (March 2001), amended by the Department of Health and Hospitals, Office of Aging and Adult Services, Division of Adult Protective Services, LR 37:

Family Impact Statement

In compliance with Act 1183 of the 1999 Regular Session of the Louisiana Legislature, the impact of this Rule on the family has been considered. It is anticipated that this Rule will have a positive impact on family functioning, stability or autonomy as described in R.S. 49:972 by ensuring the investigation of allegations of abuse, neglect, exploitation or extortion of adults with disabilities living in family settings.

1. The effect on the stability of the family. In homes with adults with disabilities, the provision of protective services to stabilize abusive or neglectful situations should strengthen the family unit.

2. The effect on the authority and rights of parents regarding the education and supervision of their children. This rule does not affect underage children unless they have been emancipated.

3. The effect on the functioning of the family. In families in which there is an adult with a disability, providing protective services would be expected to stabilize and strengthen the family unit.

4. The effect on the family earnings and family budget. Adult Protective Services does not provide any financial assistance to families; however, in the case of substantiated abuse or neglect, services may be arranged from other sources which will remove some of the financial strain from families struggling to provide for an adult with disabilities who is part of the family unit.

5. The effect on the behavior and personal responsibility of children. This Rule does not affect the behavior and responsibilities of underage children.

6. The ability of the family or local government to perform the function as contained in the proposed rule. Protective Services are a set of services provided by professionally trained specialists who assess the situations of adults with disabilities, end or prevent abuse or neglect of those people and arrange services necessary to avoid the continuance of the abuse or neglectful situation. Families and local governments do not have these specialized skills.

Small Business Statement

A regulatory flexibility analysis pursuant to R. S. 49:965.6 has been conducted. It has been determined that the promulgation of this Rule will not have an adverse impact on small business.

Public Comments

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

Baton Rouge, LA 70821-2031. He is responsible for responding to inquiries regarding this proposed Rule.

Public Hearing

A public hearing on this proposed Rule is scheduled for November 24, 2010 at 10:30 a.m. in Room 118, Bienville Building, 628 North 4th Street, Baton Rouge, LA. At that time all interested individuals will be afforded an opportunity to submit data, views or arguments either orally or in writing. The deadline for the receipt of all written comments is 4:30 p.m. on the next business day following the public hearing.

Bruce Greenstein
Secretary

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Definition of Abuse and Sexual Abuse

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

This rule proposes to amend LAC 48XIII.17105 under the Adult Protective Services Program as authorized by R.S. 15:1501-1511. During the 2010 Regular Session of the Louisiana Legislature, R.S. 15:1503(2) was amended and reenacted and R.S. 15:1503 (13) was enacted in order to amend the definition of "abuse" and to provide for a definition of "sexual abuse."

Also, the proposed rule revises the administrative description of the agency within the Department of Health and Hospitals that has changed since the formation of the Office of Aging and Adult Services and inclusion of the Adult Protective Services program within that office.

These changes do not affect current services offered through the Adult Protective Services program and therefore are not anticipated to result in any additional savings or costs, other than the cost of promulgation of the rule in the amount of \$2,050 (SGF) in FY 10-11. This cost is routinely included in the agency's annual operating budget.

There is no known impact on state or local governmental units.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is no known effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There is no known cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

It is anticipated that the implementation of this rule will have no effect on competition and employment.

Hugh Eley
Assistant Secretary
1010#047

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Insurance
Office of the Commissioner**

Regulation Number 47—Actuarial Opinion and
Memorandum Regulation (LAC 37:XIII.2111)

Under the authority of the Louisiana Insurance Code, R.S. 22:1 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Commissioner of the Louisiana Department of Insurance hereby gives notice of the Department's intent to amend its current Regulation 47 entitled "Actuarial Opinion and Memorandum Regulation" as promulgated in the October 20, 2005 *Louisiana Register*, Volume 31, Number 10, page 2543, et seq. The proposed amendment is necessary for the Louisiana Department of Insurance to comply with the national asset adequacy analysis standard of the NAIC Accreditation Team.

Title 37

INSURANCE

Part XIII. Regulations

**Chapter 21. Regulation Number 47—Actuarial
Opinion and Memorandum Regulation**

**§2111. Statement of Actuarial Opinion Based On an
Asset Adequacy Analysis**

A. - E.1. ...

F. Alternate Option

1. The commissioner may provide an alternative filing option for single state domestic insurance companies that allows for the preparation of an alternative form of opinion. The commissioner shall provide specific criteria for such an alternative filing option and instructions for the associated testing and documentation. However, all multi-state domestic insurance companies are subject to the standard asset adequacy analysis requirement.

2. - 3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.22:3, 22:752 and the Administrative Procedure Act, R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2545 (October 2005), amended LR 37:

Family Impact Statement

Pursuant to R.S. 49:953.A(1)(a)(viii) the commissioner for the LDOI states that there will be no adverse impact on family formation, family stability, and family autonomy, as set forth in R.S. 49:972 from the amendment of Regulation 47.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered

and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

Persons interested in obtaining copies of the Rule or in making comments relative to these proposals may do so at the public hearing or by writing to Barry E. Ward, Department of Insurance, P.O. Box 94214, Baton Rouge, LA 70804-9214. Comments will be accepted through the close of business at 4:30 p.m. November 26, 2010.

Public Hearing

On November 26, 2010, beginning at 9 a.m., the Department of Insurance will hold a public hearing in the Poydras Building's Plaza Hearing Room located at 1702 North 3rd Street, Baton Rouge, Louisiana, 70802 to allow for public commentary concerning the proposed amendment to Regulation 47 as set forth below.

James J. Donelon
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Regulation Number 47—Actuarial Opinion and Memorandum Regulation

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed administrative regulation will have no costs or savings to state or local governmental units. Under authority of Louisiana Revised Statutes, 49:950 et seq of the Administrative Procedures Act, the Commissioner of the Louisiana Department of Insurance amends its current Regulation 47 entitled "Actuarial Opinion and Memorandum Regulation" as promulgated in the October 20, 2005 *Louisiana Register*, Volume 31, Number 10, page 2543, et seq. The proposed administrative regulation provides for single state domestic companies to prepare an alternative form of actuarial opinion, while all multi-state domestic insurance companies are subject to the standard asset adequacy analysis requirement. The proposed administrative rule is necessary for the Louisiana Department of Insurance to comply with the national asset adequacy analysis standard of the National Association of Insurance Commissioners (NAIC) Accreditation Team.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed amended regulation will have no impact on state or local governmental revenues.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed amended regulation will have no cost and/or economic benefits to directly affected persons or non-governmental groups. The amendments are to clarify language in the statutes and will bring Louisiana into compliance with the NAIC Accreditation Team. Although the proposed administrative regulation modifies different actuarial opinions for single state domestics and multi-state domestics, the proposed administrative regulation has no impact to insurance companies because this rule merely codifies current practice.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Implementation of amended Regulation 47 should have no impact upon competition and employment in the state.

Shirley D. Bowler
Deputy Commission
1010#073

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Public Safety and Corrections Office of the State Fire Marshal State Uniform Construction Code Council

State Uniform Construction Code
(LAC 55:VI.301)

In accordance with the provisions of R.S. 40:1730.26, relative to the authority of the Louisiana State Uniform Construction Code Council (LSUCCC) to promulgate and enforce rules, the Office of State Fire Marshal hereby proposes to adopt the following Rule regarding the establishment of minimum standards.

Title 55

PUBLIC SAFETY

Part VI. Uniform Construction Code

Chapter 3. Adoption of the Louisiana State Uniform Construction Code

§301. Louisiana State Uniform Construction Code

A. - A.3.b.i.(b). ...

c. Additionally, IRC shall be amended as follows and shall only apply to the International Residential Code.

i. Substitute Chapter 3, Section R317, Dwelling Unit Separation of the 2006 IRC, in lieu of the Section 313, Automatic Fire Sprinkler Systems of the 2009 IRC.

ii. In addition, Chapter 3, Section R 302.2, Townhouses of the 2009 IRC, is amended as follows:

(a). exception:

(i). a common 2-hour fire-resistance-rated wall is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall;

(ii). electrical installations shall be installed in accordance with Chapters 34 through 43.;

(iii). penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

iii. Furthermore, Chapter 3, Section R302.2.4, Structural Independence of the 2009 IRC, is amended as follows:

(a). exception:

(i). Number 5, Townhouses, separated by a common 2-hour fire-resistance-rated wall as provided in Section R302.2.

iv. Amend Chapter 3, Section R315.2, Where Required in Existing Dwellings:

(a). when alterations, repairs or additions occur or where one or more sleeping rooms are added or created in existing dwellings that have attached garages or in existing

dwellings within which fuel fired appliances exist, carbon monoxide alarms shall be provided in accordance with Section R315.1.

4. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1730.22(C) and (D) and 40:1730.26(1).

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, State Uniform Construction Code Council, LR 33:291 (February 2007), amended LR 34:93 (January 2008), LR 34: 883 (May 2008), LR 34:2205 (October 2008), LR 35:1904 (September 2009), LR 37:

Family Impact Statement

The proposed Rule will not have any known or foreseeable impact on any family as defined by R.S. 49:972 D or on family formation, stability and autonomy. Specifically there should be no known or foreseeable effect on:

1. the stability of the family;
2. the authority and rights of parents regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of the children;
6. local governmental entities have the ability to perform the enforcement of the action proposed in accordance with R.S. 40:1730.23.

Small Business Impact Statement

The impact of the proposed Rule on small businesses has been considered and it is estimated that the proposed action is not expected to have a significant adverse impact on small businesses as defined in the Regulatory Flexibility Act. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Public Comments

All interested persons are invited to submit written comments on the proposed regulations. Such comments should be submitted no later than November 16, 2010, at 4:30 p.m. to Stephen A. Quidd, P.O. Box 66614, Baton Rouge, LA 70896.

Public Hearing

A public hearing is scheduled for November 17, 2010 at 10 a.m. at 8181 Independence Blvd., Baton Rouge, LA 70806. Please call in advance to confirm the time and place of meeting, as the meeting will be cancelled if the requisite number of comments is not received.

Jill P. Boudreaux
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: State Uniform Construction Code

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule changes are not anticipated to result in additional state or local government costs or savings. The Uniform Construction Code Council is proposing a rule that requires the construction of a fire protection wall in townhouses

as the common wall in lieu of a fire sprinkler system. A second change is being made to clarify the requirement for carbon monoxide detectors in garages to apply specifically to attached garages only.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There is anticipated to be no impact on revenue collections as a result of these rules.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Maintaining the requirement of construction of a fire protection wall in townhouses in lieu of a sprinkler system is anticipated to result in no change in construction costs. Requiring carbon monoxide detectors in attached garages is anticipated to increase construction costs.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes should not significantly affect competition or employment.

Jill P. Boudreaux
Undersecretary
1010#091

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Public Safety and Corrections
Office of State Police
Transportation and Environmental Safety Section**

**Two Year Motor Vehicle Inspection Sticker
(LAC 55.III.807)**

The Department of Public Safety and Corrections, Office of State Police, in accordance with R.S. 49:950 et seq., Act 138 of the 2009 Regular Session, and R.S. 32:1304 et seq., gives notice of its intent to promulgate amended rules providing for a two year inspection sticker effective January 1, 2011.

Title 55

PUBLIC SAFETY

Part III. Office of Motor Vehicles

Chapter 8. Motor Vehicle Inspection

Subchapter B. Safety Inspections

§807. Operation as an Official Motor Vehicle Inspection Station

A. - C.2. ...

D. Periods of Inspection

1. All vehicles inspected under the provisions of R.S. 32:1301 through R.S. 32:1314 (Motor Vehicle Inspection Law) shall be inspected at least once annually, except as provided in Subparagraph a below.

a. Effective January 1, 2011, the department will implement a two year inspection certificate program. This program will allow all officially licensed motor vehicle inspection stations to affix a two year inspection certificate to every passenger car or light truck. Where the registration of a vehicle indicates the domicile of the owner is in a parish that has been placed on the nonattainment list for ozone standards by the United States Environmental Protection Agency, that vehicle shall not be eligible for a two-year inspection certificate.

D.1.b. - I.9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1304 -1310.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 25:2424 (December 1999), amended 27:2260 (December 2001), repromulgated LR 28:345 (February 2002), amended LR 30:2859 (December 2004), amended by the Department of Public Safety and Corrections, Office of State Police, Transportation and Environmental Safety Section, LR 37:

Family Impact Statement

1. The effect of this Rule on the stability of the family. This Rule should not have any effect on the stability of the family.

2. The effect of this Rule on the authority and rights of parents regarding the education and supervision of their children. This Rule should not have any effect on the authority and rights of parents regarding the education and supervision of their children.

3. The effect of this Rule on the functioning of the family. This Rule should not have any effect on the functioning of the family.

4. The effect of this Rule on family earnings and family budget. This Rule should not have any effect on family earnings and family budget.

5. The effect of this Rule on the behavior and personal responsibility of children. This Rule should not have any effect on the behavior and personal responsibility of children.

6. The effect of this Rule on the ability of the family or local government to perform the function as contained in the proposed Rule. This Rule should not have any effect on the ability of the family or local government to perform the function as contained in the proposed rule.

Public Comments

Interested persons may submit written comments to Paul Schexnayder, Post Office Box 66614, Baton Rouge, LA 70896. Written comments will be accepted through November 15, 2010.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Two Year Motor Vehicle Inspection Sticker

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed rule is anticipated to save the agency \$131,250 in printing costs for inspection stickers in FY11. Each year thereafter the agency is anticipated to realize a \$262,500 savings in printing costs. The rule change may also result in a one-time cost of \$1,000 for design of a two-year inspection certificate, which was not done in the pilot program. The rule is proposing to change from a one-year, to a two-year motor vehicle inspection program (MVI) for all passenger cars and light trucks where the vehicle's owner is not domiciled within a parish on the United States Environmental Protection Agency's non-attainment list for ozone standards. Parishes on the non-attainment list (East Baton Rouge, Livingston, Ascension, West Baton Rouge, and Iberville) will continue to receive a one-year inspection.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The state is anticipated to collect additional revenue during the first year of implementation. The additional collection from

the first year is anticipated to be slightly more than \$6M. The fee for inspection of a passenger car or light truck where the vehicle's owner is domiciled outside of a parish on the EPA's non-attainment list is \$10 for a one-year certificate and \$20 for a two-year certificate. Two-year certificates are currently available for new cars or trucks when the vehicle owner does not reside in a parish on the EPA's non-attainment list.) The current rule requires motor vehicle inspection stations to make an advance payment of \$5.25 for a one-year certificate and \$10.50 for a two-year certificate. Approximately 2.5M MVI certificates/stickers are sold annually in parishes not on the EPA's non-attainment list; and outside of Westwego, Kenner, and New Orleans, cities that have a local vehicle inspection program. If half the passenger cars and light trucks in the affected parishes paid \$20 in FY11 and received a two-year certificate, the state would collect an additional \$6.5M (\$5.25 x 1,253,190 vehicles= \$6,579,248). Since the effective date of the rule is January 20, 2011, the state is anticipated to collect slightly less than the amount illustrated. The vehicles receiving a two-year inspection sticker in FY11 will not be inspected again until 2013. Those vehicles inspected between July 1, 2010 and December 31, 2010 (FY2011) will be eligible for a two-year sticker in FY12. In FY12, the increased collections received from vehicle owners receiving a two year certificate for the first time will be offset by the decrease in collections because vehicle owners who received a two year sticker in FY11 will not have to register again until FY13. Collections are expected to level off beginning in FY12.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

Motor vehicle inspections stations in parishes not on the EPA's non-attainment list for ozone standards should experience an increase in income in FY2011, which will level off in subsequent years. Inspection stations in parishes placed on the non-attainment list for ozone standards by the EPA will not be affected by this rule.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The implementation of the program may result in a lesser number of authorized inspectors who work for Official Motor Vehicle Inspection stations. There is no way to quantify this assumption. The information can only be quantified after full implementation of the program where every car and truck receives a 2-year inspection sticker after such a period has passed that a study will yield numbers that are based on sound data.

Jill Boudreaux
Undersecretary
1010#092

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

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

Oyster Leases (LAC 76:VII.501)

The Wildlife and Fisheries Commission does hereby give notice of its intent to amend the rules on oyster leases.

Title 76

WILDLIFE AND FISHERIES

Part VII. Fish and Other Aquatic Life

Chapter 5. Oysters

§501. Oyster Leases

A. Office Policies and Procedures

1. Office hours will be from 8 a.m. to 4:30 p.m., Monday through Friday excluding state holidays.

2. No one is to go into the lease document or quadrangle files, or application registration without permission of and accompaniment by designated office personnel.

B. Oyster Lease Applications

1. All applicants must appear in person at the Oyster Lease Section office to apply for an oyster lease, or provide power of attorney to agents to act in their behalf.

a. No application for new area will be accepted from any person not of the full age of majority (18 years).

2. An applicant will be required to outline on a department map the area for which he wishes to apply. Pursuant to R.S. 56:427(A), each element of the verbal description written on the application must be met by the survey plat. Additionally, the survey plat must conform completely to the map outline attached to and made a part of the application; provided, however, that deviations from the map outline (but not the verbal written description) are permitted when such a deviation would not encroach on a neighboring lease or application, or when the signed, written consent of the leaseholder or applicant whose lease or application would be affected, has been granted. In no case will an applicant survey outside of his verbal written description, except as provided in Clause 2.a.ii below.

a. In the event of department error which results in an application being taken in an area where there is a prior undisclosed application or lease which prevents the applicant from taking the full amount of acreage applied for in the area described, the following procedure shall apply. The applicant shall have the option of:

i. taking all available remaining acres within the originally described area in a lease; or

ii. taking all applied-for acres in one lease outside of the originally described area but in the nearest unencumbered water bottom; or

iii. if neither of the above options is acceptable to the applicant, the applicant may have his original application cancelled and receive a full refund of the application fee.

b. The applicant shall have 30 days, from the date of notification by certified letter of the conflict, to exercise the above options.

c. If the applicant exercises the option as set out in Clause 2.a.ii above he shall be held to the amount of acres in his original application plus 10 percent.

d. In all such cases, the department shall have final approval of all relocations.

e. Before having the relocation area surveyed, it shall be necessary for the applicant to submit a new application for the area of relocation. This application shall be identified as a "relocation" application and shall indicate the old application by number for which it is being substituted and shall also be approved in writing by the Administrator of the Fisheries Division of the department. There will be no charge for the relocation application.

f. All relocations shall follow this procedure. No survey shall proceed until the properly completed relocation application has been submitted, accepted and approved. No survey is authorized without the above procedure being followed nor shall the department be responsible for the cost

of any survey performed prior to final approval of the relocated application.

3. Where distances between oyster leases or between oyster leases and the shoreline are 200 feet or less, no applications or leases shall be taken or issued except that the intervening space may be shared equally by the existing leases or applicants if properly applied for and leased in accordance with existing policies and practices.

4. No new application will be taken or lease issued whose length exceeds its narrowest width by more than a factor of three except as follows:

a. between existing leases where all available water bottoms are taken;

b. in bayous (or similar configurations, connections or cuts between bays, lakes and ponds, etc.) where all available water bottoms are taken with a subservient clause prohibiting an impedance of reasonable navigation.

5. Any application for an oyster lease may be contoured to follow the shoreline.

6. Upon death of an applicant the estate will have 180 days to appoint a representative to deal with the applications. If the department has not been notified within 180 days the application will be cancelled and fees will be retained.

7. No application for lease shall be transferrable.

8. An application will automatically be cancelled unless an applicant submits a complete survey, meeting department specifications, no later than one and one half years (1.5 years) after the date of submission of the lease application.

C. Application Fees

1. Application fees for new leases will be \$40.

2. Application fees on leases expiring by 15-year limitation will be \$30.

D. Private Surveyors Surveying Oyster leases for Oyster Farmer

1. Surveyor to be charged the basic rate for copies of documents needed.

2. All corners of oyster lease surveys to be referenced to the Louisiana State Plane Coordinate System, South Zone, NAD83, Survey Feet.

3. Surveyors to plot on the survey plat any land, any existing structures or improvements within or adjacent to the application boundary.

4. Survey plats to be drawn in black ink on standard oyster lease plats furnished by the Louisiana Department of Wildlife and Fisheries Oyster Lease Section and original to become the property of same. Surveyors to provide a formatted ascii file of the coordinates for each corner of the survey that complies with the Oyster Lease Section's geographic information system.

5. The acreage of all surveys, even though calculated to tenth or hundredth of acre, to be rounded up to the next highest acre.

6. Application number and ownership to be shown on all survey plats as indicated on the original application.

7. No land area to be included in survey.

8. Use standard signs and symbols.

9. If a private surveyor repeatedly surveys over an existing lease, application or land area, that private surveyor will be reported to the Louisiana State Board of Professional Engineers and Land Surveyors.

10. Noncompliance with any requirement established by law or by these rules, after 30-day notification from the department by certified mail, shall result in cancellation of the application or lease and forfeiture of all fees to the department.

E. Office Procedures and Fees

1. If any survey of existing leases shows an overlap, the department will abstract the leases involved and eliminate the overlap, giving the area to the longest continuously uninterrupted lease and shall notify the lessees of the action.

2. Annual rental notices will be mailed to lessees at least 30 days in advance of due date which is January 1 of each year.

3. A fee of \$10 per lease will be charged for transfer of an oyster lease.

4. A fee for all extra maps, leases, plats or documents, will be charged as follows:

All maps	\$ 10 per copy
Plats	\$ 5 per copy
Lease Documents	\$ 5 per copy
Other materials	\$ 1 per copy
Computations)	\$ 2 per point
(State Plane to Latitude/Longitude)	

F. Oyster Lease Posting Requirements. In an effort to comply with R.S. 56:430(B), and to keep within the constraints of Title 14, Section 63, dealing with criminal trespassing, the following are the posting oyster lease requirements.

1. The oyster lessee or person seeking to post the oyster lease shall place and maintain signs along the boundaries of the property or area to be posted. These signs shall be written in the English language.

2. The signs shall have letters at least three inches in height and shall be of sufficient size and clarity to give notice to the public of the location and boundary of the oyster lease. The signs shall be placed and maintained at intervals of not more than one-fifth of a mile and shall be at least three to 12 feet above the water level.

3. At the main entrance to the property and at no less than all corners along the boundary of said property, the party seeking to post same shall include his name, initials, or lease number.

4. In marsh areas and canals, posted signs shall also be placed at all major points of ingress and egress.

5. In open waters all signs are to be placed facing outward.

G. Policy to Comply with Laws Concerning Default in Payment of Rent on Oyster Leases (Noncompliance R.S. 56:429)

1. On the first working day in February of each year, the Survey Section will compile a list of leases that are in default (R.S. 56:429). After compiling the list each owner will be notified by certified mail that his lease is in default and will be offered at public auction on the last Tuesday in March. He will also be notified that all works, improvements, betterments, and oysters on the leased area are the property of the state and that the Enforcement Division of the Louisiana Department of Wildlife and Fisheries has been so notified.

2. On the first working day following the last day of February all leases still in default will be advertised in a newspaper in the parish in which the lease is located. After the placement of the advertisement, advertisement cost will be added to the lease rent plus 10 percent. Up to and including the second Monday in March, the leases may be reinstated by payment of the rent due plus 10 percent and the advertising cost if applicable.

3. On the last Tuesday in March the auction will be held at a place to be designated by the Louisiana Department of Wildlife and Fisheries. The auctioneer will be the chief surveyor or his designee. The opening bid for each lease will be the rent due plus 10 percent and advertising cost. All sales must be paid for in cash or by check. The auction will start with the lowest numbered lease and continue numerically until complete.

4. Any leases not sold at auction will be removed from the Oyster Lease Section maps. The area will be open and may be taken by application.

H. Procedures to Comply with R.S. 56:432

1. The Oyster Lease Section will keep an indexing system to determine the acreage held by all oyster lease holders.

2. No application will be accepted that will cause an applicant to exceed a total of 2,500 acres under lease and application. Reference R.S. 56:432.

3. An oyster lease applicant will be given 30 days to reduce lease acreage prior to cancellation of any application that would cause his lease acreage to exceed 2,500 acres. If the reduction is not made within 30 days the application will be cancelled and all fees retained by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 56:6(10) and R.S. 56:422.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 10:470 (June 1984), amended LR 12:844 (December 1986), LR 15:197 (March 1989), LR 17:808 (August 1991), LR 37:

The Secretary of the Department of Wildlife is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice Of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statement, the filing of the Notice of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Public Comments

Interested persons may submit written comments on the proposed Rule to Raymond Impastato, Fisheries Division, Department of Wildlife and Fisheries, 2021 Lakeshore Drive, New Orleans, LA 70122 no later than 4:30 p.m., Thursday, December 2, 2010.

Stephen J. Oats
Chairman

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

RULE TITLE: Oyster Leases

NOTICE OF INTENT

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

Wildlife Rehabilitation Program
(LAC 76:V.131)

The Wildlife and Fisheries Commission does hereby amend the regulations for the permitting and operation of wildlife rehabilitators.

Title 76

WILDLIFE AND FISHERIES

Part V. Wild Quadrupeds and Wild Birds

Chapter 1. Wild Quadrupeds

§131. Wildlife Rehabilitation Program

A. Purpose

1. The purpose of this Section is to establish rules for the permitting and operation of wildlife rehabilitators.

B. Definitions

Rabies Vector Species (RVS)—mammalian species defined by Louisiana Department of Wildlife and Fisheries (LDWF) as potential carriers of the rabies virus including, but not limited to the following:

- a. raccoons;
- b. foxes;
- c. coyotes;
- d. skunks; and
- e. bats.

Subpermittee—person authorized to conduct rehabilitation activities under the supervisory responsibility of a wildlife rehabilitator.

Supervisory Responsibility—to direct actions and accept responsibility for the actions of a named individual engaged in wildlife rehabilitation activities.

Wildlife Rehabilitation—activity that provides housing, treatment and temporary care of injured and/or orphaned indigenous animals with the goal of subsequent release of those healthy animals to appropriate habitats in the wild.

Wildlife Rehabilitator—a person who is permitted by the LDWF to engage in the practice of wildlife rehabilitation.

C. Permits

1. It shall be unlawful for any person to keep, hold or possess in captivity any sick, injured or orphaned wildlife (except fish) or otherwise engage in wildlife rehabilitation without first obtaining at no charge, a LDWF Wildlife Rehabilitation Permit (WRP). In addition to the WRP, a United States Fish and Wildlife Service (USFWS) rehabilitation permit must be in possession to rehabilitate species covered by the Migratory Bird Treaty Act or Endangered Species Act.

2. A WRP authorizes the permittee to transport; temporarily possess; rehabilitate; transfer to a practicing veterinarian or another wildlife rehabilitator for treatment or euthanasia; release; or euthanize an injured, diseased, disabled, orphaned or otherwise debilitated live wildlife specified on their permit. Animals held under a WRP shall

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

Implementation of the proposed rule amendment will be carried out using existing staff and funding level. Previously, the cost of conducting oyster surveys exceeded the revenue collected by the state. Act 392 of the 2010 Regular Session removed the requirement for the department to conduct an oyster lease survey, eliminating that cost. Thus, this rule eliminates the portion of the previous fee associated with the costs of conducting the survey.

Local governmental units are anticipated to not be impacted by the proposed action.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule amendment is anticipated to have a negative effect on revenue collection of the state. For FY 10-11, FY 11-12 and FY 12-13 state revenue collections are estimated to decrease by \$198,489, \$162,991 and \$109,746, respectively. This amounts to a \$471,226 decrease in state revenue collections during the next three fiscal years and averages \$157,075 per year. No effect on local governmental revenue collections are anticipated from the proposed action.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amendment will directly affect applicants of new and renewal oyster leases and private surveyors who perform oyster lease surveys. Individuals with new oyster lease applications or individuals that need to change the configuration of their lease renewal will be required to have a survey performed by a private surveyor, since the department will no longer perform this service. This is anticipated to increase the survey cost to these individuals, but could decrease the processing time to complete the survey requirements in some cases. An application fee of \$40.00 for new leases will be charged to pay for part of the processing costs incurred by the department.

Individuals with renewal applications that require no modifications to their lease renewal will benefit from not being required to have a new oyster survey conducted, thereby decreasing their lease renewal cost. An application fee of \$30.00 for renewals will be charged by the department to pay for part of the processing costs that are incurred.

Private surveyors who perform oyster lease surveys will benefit from the proposed rule amendment by having increased business opportunities to perform oyster lease surveys.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule is anticipated to have a slight positive impact on employment and increased competition in the private sector, since the state will not be conducting oyster lease surveys. No change on competition and employment is anticipated in the public sector.

Lois Azzarello
Undersecretary
1010#088

Robert E. Hosse
Staff Director
Legislative Fiscal Office

not be displayed for educational purposes or otherwise displayed or exposed to the public unless that individual animal has been permitted by LDWF or USFWS for that purpose.

D. Exemptions

1. Employees of the LDWF are exempt from all state wildlife rehabilitation permit requirements while they are on duty.

2. Licensed veterinarians are exempted, provided they are treating an animal under the authorization of a wildlife rehabilitator or LDWF employee, or are treating an animal taken in from the public, provided the animal is released into an appropriate habitat or accepted by a wildlife rehabilitator within 72 hours after receiving.

E. Permit Requirements

1. All applicants must be 18 years of age or older.

2. Anyone who has been convicted of a Class II or greater wildlife violation in Louisiana, or the equivalent in another state within the past five years, or has been convicted of a felony in Louisiana or another state, shall not be eligible for a WRP.

3. All applicants must complete a WRP application, liability release, and financial responsibility statement.

4. Prior to licensure or renewal, all applicants must show proof of completion of a LDWF-approved wildlife rehabilitation course and must be currently certified under the approved organization's guidelines. Failure to provide proof of successful completion of the course and subsequent continuing education requirements will result in non-licensure or revocation of the WRP.

5. All applicants must provide verification of having access to veterinary services by submitting a Statement of Veterinary Support Form provided by LDWF.

6. All facilities where animals will be housed or maintained will be inspected by LDWF prior to receiving a WRP.

F. General Rules

1. The WRP will not exempt the holder from regulations of other state, federal, parish or municipal governments or agencies.

2. Sale of any animal held under a WRP is prohibited.

3. No animal held under a WRP may be used for human consumption, unless specifically approved.

4. No Louisiana S1-ranked species may be held under a WRP, without written authorization from the LDWF Wildlife Division.

5. No animal intended for wildlife rehabilitation may be imported into or exported out of the state of Louisiana without written authorization by LDWF Wildlife Division.

6. The WRP does not authorize the possession of white-tail deer, bears, wild turkeys or alligators unless specifically stated on the permit.

7. Request for an Extension

a. WRP holders shall not possess a non-migratory bird for more than 90 days, other injured wildlife longer than 45 days, or other orphaned wildlife no longer than required to prepare the animal for release, but not to exceed 120 days, except that a permit holder may submit a written request for extension of possession if:

i. the specified animal will likely be releasable after the time frame listed above but is currently non-releasable because of biological reasons; or

ii. a licensed veterinarian determines, due to medical reasons, the animal requires additional rehabilitation time.

b. All extension requests should include a proposed release date and be submitted in writing to LDWF Wildlife Division. The permit holder may continue to house the specified animal while LDWF is reviewing the request. LDWF will provide a written response and include specific dates and instructions regarding disposition of the animal.

8. WRP holders must ensure that animals are exposed to minimal handling and other human contact, except as necessary to maintain sanitary conditions, provide food and water, provide medical care, and prepare the animal for release.

9. Animals that are determined medically non-releasable by a licensed veterinarian, exhibit signs of adjusted life in captivity and pose minimum zoonotic disease potential may be considered for educational animal designation. A LDWF Special Purpose and Possession permit application must be submitted to LDWF Wildlife Division by the end of the 90 day rehabilitation period to be considered for educational animal status.

10. All WRPs shall expire on December 31 of the year of issue unless otherwise noted.

11. Permits are non-transferable but may include up to five listed subpermittees. Subpermittees are authorized to transport, house, and provide care for animals away from the wildlife rehabilitation facility. A person caring for animals at the wildlife rehabilitation facility is not required to be a subpermittee. WRP holders desiring to add subpermittees, must submit a subpermittee application form. Subpermittee forms will only be accepted by the LDWF at the original time of permitting, renewal and during June 1-30 each year. Individuals may be removed as subpermittees at any time of the year. A subpermittee removal form must be submitted. All subpermittees:

a. must be 18 years of age or older;

b. are exempt from the testing requirement but are subject to all other rules governing WRP holders including animal housing and care requirements;

c. must work under the direction and supervision of the WRP holder;

d. may be removed at any time by the supervising WRP holder or LDWF and in such cases must surrender any animals to the WRP holder or LDWF;

e. must have a valid subpermittee permit on the premises where animals are housed if animals are housed away from the supervising WRP holder's facility; and

f. must not transport or possess RVS species away from the supervising WRP holder's facility.

12. WRP holders are subject to non-renewal or revocation of their WRP if LDWF determines that any of their listed subpermittees are not properly supervised or fail to abide by applicable WRP rules.

13. LDWF provides no financial or material assistance to wildlife rehabilitators.

14. Euthanasia of any animal held under a WRP is to be performed under the guidelines adopted by the American Veterinary Medical Association (AVMA).

15. Animals held under a WRP shall not be released on private land without written permission of the landowner or landowner designee. Licensed rehabilitators shall keep on

file for perpetuity, an original document signed by the landowner, permitting the licensed rehabilitator to release animals upon their property. This document should include the name, address and phone number of the landowner, the physical location of the property, the size of the property (in acres), and the duration of the permission to release rehabilitated animals there. This document shall be presented upon request for review by LDWF personnel. A copy of all landowner permission documents shall be submitted to LDWF with the annual WRP report.

16. Animals held under a WRP shall not be released on public land without first obtaining written permission from the governmental entity owning or administering the property.

17. All permitted animals and facilities in which they are housed shall be maintained within the minimum standards as provided by the National Wildlife Rehabilitators Association (NWRA) and International Wildlife Rehabilitation Council (IWRC) publication of Minimum Standards for Wildlife Rehabilitation.

18. It is strongly recommended that any wildlife rehabilitator working with rabies vector species receive pre-exposure rabies immunization.

G. Reporting and Renewal Requirements

1. All animals held under a WRP must be fully documented on Wildlife Rehabilitation Report Form provided by LDWF.

2. A permanent record of each animal admitted by a permitted rehabilitator must be maintained. This record should include the name, address, phone number and email address of the person finding the animal, species, age, sex, date of admission, treatment performed, method of euthanasia if performed or date and location of release. These records must be maintained in perpetuity and must be available for inspection by LDWF personnel.

3. Wildlife Rehabilitation Report Forms for the permit period must be submitted to the LDWF no later than 30 days following the expiration of the permit and the WRP will not be renewed until these forms are received. Reports will cover the period from December 1 of the prior license year to November 30 of the current license year. Any wildlife rehabilitator who does not submit his/her report by the thirtieth day after the expiration date of the WRP, or who submits a false or materially incomplete report intentionally may be issued a citation for violation of Louisiana Wildlife and Fisheries Commission rules and regulations. If the citation does not result in a conviction, plea of guilty, or plea of no contest, the wildlife rehabilitator may be considered for reapplication upon receipt of the late wildlife rehabilitation form(s).

4. Report forms must be current and shall be available for inspection at all times by Wildlife Enforcement Agents or any other authorized representatives of the department.

5. Upon expiration of a WRP and if the WRP has not been renewed, all animals held under the permit must be disposed of by transferring to a currently licensed WRP, released into the wild, or euthanized.

H. Penalties

1. Violations of this rule constitute a Class 2 offense.

2. Violation of these rules may result in citation and/or revocation of the WRP.

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Constitution, Article IX, Section 7, R.S. 56:1, R.S. 56:5, R.S. 56:6 (10), and (15), and R.S. 56:115.

HISTORICAL NOTE: Promulgated by the Department of Wildlife and Fisheries, Wildlife and Fisheries Commission, LR 36:852 (April 2010), amended LR 37:

The Secretary of the Department of Wildlife is authorized to take any and all necessary steps on behalf of the commission to promulgate and effectuate this Notice Of Intent and the final Rule, including but not limited to, the filing of the Fiscal and Economic Impact Statements, the filing of the Notice Of Intent and final Rule and the preparation of reports and correspondence to other agencies of government.

Family Impact Statement

In accordance with Act #1183 of 1999, the Department of Wildlife and Fisheries/Wildlife and Fisheries Commission hereby issues its Family Impact Statement in connection with the preceding Notice of Intent: This Notice of Intent will have no impact on the six criteria set out at R.S. 49:972(B).

Public Comments

Interested persons may submit comments relative to the proposed Rule to Emile LeBlanc, Department of Wildlife and Fisheries, Wildlife Division, Box 98000, Baton Rouge, LA 70898-9000, prior to Thursday, December 2, 2010.

Stephen J. Oats
Chairman

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Wildlife Rehabilitation Program

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

No increase or decrease in costs associated with implementing the proposed rule is anticipated. Implementation of the rule will be carried out by existing staff and funding level.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

No effect on revenue collections of state and local governmental units is anticipated from the proposed rule.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule amendment will directly affect current wildlife rehabilitators and wildlife rehabilitator permit applicants. Wildlife rehabilitators may experience a slight increase in paperwork and associated costs by having to permanently maintain on file specific information, as outlined in the proposed rule amendment, for each animal admitted and for each private release area available for their use.

Wildlife rehabilitator permit applicants will be required to provide proof that they have successfully completed an

approved wildlife rehabilitation course and are currently certified under a wildlife rehabilitator organization's guidelines. Costs associated with completing a wildlife rehabilitation education course and maintaining certification under an organization's guidelines will be incurred.

Wildlife rehabilitation organizations that offer wildlife rehabilitation education courses and certification may experience a slight increase in receipts and income from the proposed rule amendment.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule amendment will have little or no impact on competition and employment in the private and public sectors.

Lois Azzarello
Undersecretary
1010#087

Robert E. Hosse
Staff Director
Legislative Fiscal Office

Committee Reports

COMMITTEE REPORT

Senate Committee on Health and Welfare

Nursing Facility Minimum Licensing Standards Nurse Aide Training and Competency Evaluation Program (LAC 48:I.Chapter 100)

Editor's Note: This Emergency Rule was effective on August 23, 2010 and was published in the September 20, 2010 *Louisiana Register* on pages 1965-1970.

Pursuant to La. R.S. 49:968(F), the Senate Committee on Health and Welfare, at duly called meeting on September 17, 2010, has made a finding that the Emergency Rule entitled "Nursing Facility Minimum Licensing Standards Nurse Aide Training and Competency Evaluation Program" promulgated and adopted by the Department of Health and Hospitals on August 23, 2010, is unacceptable.

Senator Willie L. Mount
Chairperson

1010#048

Administrative Code Update

CUMULATIVE: JANUARY - SEPTEMBER 2010

LAC Title	Part.Section	Effect	Location LR 36 Month Page		LAC Title	Part.Section	Effect	Location LR 36 Month Page	
4	XI.101,103,105,107,109,111	Repealed	July	1544	28	XLIII.1901,1902,1903,1904	Adopted	Sept.	2011
7	III.101,103	Amended	Mar.	464	XLIII.2001	Adopted	Sept.	2011	
	III.301-315	Adopted	Mar.	464	XLV.501,601	Amended	Apr.	753	
	III.301-337	Repealed	Feb.	231	XXXIX.101,103,301,303,305	Amended	Sept.	2001	
	XIII.101,113,191,207	Amended	June	1220	XXXIX.501,503,505,507,509	Amended	Sept.	2001	
	XIII.222	Repealed	June	1220	XXXIX.511,513,901,903,905	Amended	Sept.	2001	
	XXIII.143	Amended	Sept.	1980	XXXIX.701,703,705,707	Adopted	Sept.	2001	
10	XII.301	Repealed	Feb.	316	XXXIX.907,909,911,913,915	Amended	Sept.	2001	
	XVII.901	Amended	June	1243	XXXIX.1101	Amended	Sept.	2001	
13	I.2701,2703,2705,2709	Amended	Feb.	307	XXXIX.1301,1501	Repealed	Sept.	2001	
	I.2711,2713,2715	Amended	Feb.	307	LXXIX.2111	Amended	July	1498	
	I.2707,2717	Adopted	Feb.	307	LXXXIII.301,303,307,405,409	Amended	Sept.	1987	
	I.2901,2105	Amended	Aug.	1768	LXXXIII.313,511,513,514,525	Repealed	Sept.	1987	
	I.2904	Adopted	Aug.	1768	LXXXIII.411,413,515,519,521	Amended	Sept.	1987	
	I.2907,2909	Repealed	Aug.	1768	LXXXIII.613	Repromulgated	Sept.	1994	
	I.Chapter 35	Adopted	Mar.	474	LXXXIII.613,1101,1601,4311	Amended	Aug.	1769	
	I.Chapter 37	Adopted	Apr.	750	LXXXIII.703,903,3301,3303	Amended	Sept.	1987	
	III.1709	Amended	Jan.	51	LXXXIII.2701,2702,2703,2705	Repealed	Sept.	1987	
19	II.105,107,507,903	Amended	Jan.	51	LXXXIII.2707,2709,2711,2713	Repealed	Sept.	1987	
	IX.Chapters 1 and 3	Adopted	Mar.	471	LXXXIII.2715,2717,2719,2721	Repealed	Sept.	1987	
	IX.Chapters 11 and 13	Adopted	Mar.	507	LXXXIII.3701,3901,4310,4503	Amended	Sept.	1987	
22	I.103	Amended	Mar.	525	LXXXIII.4505	Repealed	Sept.	1987	
	I.105	Amended	May	1017	LXXXIII.5101,5103	Adopted	Aug.	1769	
	I.107	Amended	Mar.	528	CXLI.107,1803,1813,1817	Amended	Mar.	477	
	I.109	Amended	Mar.	534	CXLI.312,701,1127,1129,1151	Amended	May	967	
	I.319	Adopted	Mar.	533	CXLI.1325,1327,1349,1803	Amended	May	967	
	I.331	Amended	Mar.	531	CXLI.1819,1821,1823,1825	Adopted	May	967	
	I.339	Amended	June	1265	CXLI.1827,1829,2031,2033	Adopted	May	967	
	I.723	Adopted	Aug.	1784	CXLI.2011,2012,2013,2014	Amended	May	967	
	I.2101	Amended	Aug.	1784	CXLI.2015,2016,2017,2019	Amended	May	967	
	I.2103,2105	Repealed	Aug.	1784	CXLI.2035,2037,2039,2041	Amended	May	967	
	I.2327	Repealed	Mar.	525	CXLI.3303,3307,3501	Amended	May	967	
	III.4703	Amended	May	992	CXIII.101,301,303,305,307	Amended	July	1466	
	XV.901-927	Adopted	May	993	CXIII.309,501,503,505,507	Amended	July	1466	
25	I.1103-1119	Amended	Mar.	469	CXIII.701,901,903,905,907	Amended	July	1466	
	V.501,503,505,507	Adopted	Jan.	50	CXIII.909,913,915,1101,1103	Amended	July	1466	
	IX.101,301,303,307,308,309	Amended	June	1225	CXIII.911,1705,1903,2507	Adopted	July	1466	
	IX.310,312,313,314,321,331	Amended	June	1225	CXIII.1105,1301,1303,1305	Amended	July	1466	
	IX.500,501,502,504,505,506	Amended	June	1225	CXIII.1307,1501,1503,1505	Amended	July	1466	
	IX.507,900,901,903	Amended	June	1225	CXIII.1701,1703,1901,1905	Amended	July	1466	
	IX.905,907,909,911,913,915	Repealed	June	1225	CXIII.2101,2103,2105,2107	Amended	July	1466	
	IX.917,919	Repealed	June	1225	CXIII.2109,2111,2301,2303	Amended	July	1466	
	IX.921,923,925,927,929,931	Adopted	June	1225	CXIII.2305,2501,2503,2505	Amended	July	1466	
28	I.713	Amended	Feb.	59	CXIII.2509,2515,2517,2701	Amended	July	1466	
	IV.301,507,703	Amended	Feb.	311	CXIII.2511,2513,3103	Adopted	July	1466	
	IV.301,703,705,803	Amended	Mar.	490	CXIII.2901,2903,3101	Amended	July	1466	
	IV.1009,1011,1013,1015	Amended	Sept.	2029	CXV.337,709,1103,1109,1301	Amended	June	1224	
	IV.1017	Repealed	Sept.	2029	CXV.343	Amended	July	1498	
	VI.301	Amended	Feb.	313	CXV.901	Amended	July	1497	
	VI.305,311,315	Amended	Mar.	492	CXV.1103,1105	Amended	Mar.	481	
	VI.315	Amended	Sept.	2030	CXV.1129	Amended	Mar.	480	
	XXXI.503,507	Amended	Mar.	489	CXV.1147	Adopted	Mar.	482	
	XLI.101,301,501,503,505	Amended	July	1505	CXV.2304	Amended	Mar.	483	
	XLI.507,701,1101,1103,1105	Amended	July	1505	CXV.2313	Amended	June	1224	
	XLI.601,603,605,607,609	Adopted	July	1505	CXV.2317,2318,2319,2341	Amended	July	1485	
	XLI.1107,1301	Amended	July	1505	CXV.2321	Repromulgated	Jan.	59	
	XLIII.151,152,153,160,301	Amended	July	1499	CXV.2345	Amended	Sept.	1996	
	XLIII.230,607,802,803	Adopted	July	1499	CXV.2347	Adopted	July	1485	
	XLIII.512,601,603,705,905	Amended	July	1499	CXV.2347	Amended	July	1497	
	XLIII.1101,1102,1103,1105	Adopted	Sept.	2011	CXV.2353,2361,2363	Amended	July	1485	
	XLIII.1107,1117,1118,1129	Adopted	Sept.	2011	CXV.2373	Amended	Sept.	1995	
	XLIII.1130,1132,1133,1149	Adopted	Sept.	2011	CXV.2377	Amended	July	1496	
	XLIII.1151,1152,1153,1156	Adopted	Sept.	2011	CXV.2377	Amended	Sept.	1996	
	XLIII.1167,1173,1174,1230	Adopted	Sept.	2011	CXV.2385	Amended	Sept.	1997	
	XLIII.1301,1303,1305,1320	Adopted	Sept.	2011	CXV.2397	Amended	Sept.	1995	
	XLIII.1322,1324,1325,1326	Adopted	Sept.	2011	CXVII.303	Repromulgated	Feb.	310	
	XLIII.1327,1328,1501,1502	Adopted	Sept.	2011	CXXXI.241,243	Amended	Mar.	484	
	XLIII.1503,1504,1507,1508	Adopted	Sept.	2011	CXXXI.241,243,409	Amended	Mar.	487	
	XLIII.1509,1510,1511,1512	Adopted	Sept.	2011	CXXXI.311	Amended	Mar.	486	
	XLIII.1513,1515,1516,1517	Adopted	Sept.	2011	CXXXI.315	Amended	Apr.	751	
	XLIII.1518,1519,1520,1602	Adopted	Sept.	2011	CXXXI.411	Amended	Sept.	1998	
	XLIII.1603,1604,1701,1702	Adopted	Sept.	2011	CXXXI.507,511	Amended	Sept.	2000	
					CXXXI.645	Amended	Mar.	485	
					CXXXI.801,803	Amended	Mar.	486	
					CXXXI.906	Adopted	Sept.	1998	
					CXXXI.911	Amended	Sept.	1998	
					CXXXIX.1503	Adopted	Mar.	478	

LAC Title	Part.Section	Effect	Location		LAC Title	Part.Section	Effect	Location		
			LR 36	Month Page				LR 36	Month Page	
33	I.3905,3931	Amended	June	1241	48	XCI.303	Amended	June	1246	
	I.3913	Repealed	June	1239		XCI.901	Adopted	Feb.	321	
	I.3915,3917,3923,3925	Amended	June	1239		I.6867	Amended	May	1008	
	III.111,2123	Amended	Aug.	1773		I.8807	Amended	Apr.	831	
	III.317	Adopted	July	1540		I.9303	Amended	Mar.	513	
	III.2123	Repromulgated	Sept.	2030		I.Chapter 96	Adopted	Mar.	513	
	III.2131	Amended	July	1534		I.9727	Amended	May	1013	
	III.2201,2202	Amended	Jan.	59		I.9729	Amended	Feb.	325	
	III.109,1109,1901,1907,1909	Amended	June	1234		I.12501,12503,12505,12525	Amended	Feb.	322	
	III.4437	Amended	June	1234		I.12529	Amended	May	1009	
	V.109,1109,1901,1907,1909	Repromulgated	July	1535		I.Chapter 129	Adopted	Mar.	521	
	V.4437	Repromulgated	July	1535		V.1101,1303,1305,1307	Amended	Jan.	68	
	V.10105,10117,10121	Amended	Mar.	545		V.1309,1311,1313,1315	Adopted	Jan.	68	
	VII.315,713	Amended	June	1239		XIII.17101,17103,17105	Amended	Apr.	759	
	IX.901,903,905,907	Amended	Aug.	1778		XIII.17107,17109,17111	Amended	Apr.	759	
XI.601,603,605,607,609,611	Adopted	Feb.	313	XIII.17113,17115,17117	Amended	Apr.	759			
XI.713	Amended	June	1239	XIII.17119,17121,17123	Amended	Apr.	759			
XV.102,328,713,763	Amended	Aug.	1771	XIII.17125	Amended	Apr.	759			
				XXV.Chapter 5	Adopted	June	1255			
34	III.321,323,325,327,329	Adopted	July	1542	50	I.1101,1103,1105,1107	Adopted	July	1555	
41	III.101	Adopted	Feb.	316		II.101,105,107,109,111,115	Amended	May	1014	
42	III.2521,2522,2523,2524,2525	Adopted	June	1268		II.501-511	Amended	May	1010	
	III.2526	Adopted	June	1268		II.10146,10157	Repealed	May	1010	
	VII.2521,2523,2524	Repealed	June	1268		V.301	Adopted	Jan.	66	
	VII.2707,2715,2723	Amended	May	1018		V.953,955,959	Amended	July	1552	
	IX.2521,2522,2523,2524	Repealed	June	1268		V.954	Adopted	Mar.	519	
	IX.2707,2715,2717,2723	Amended	May	1018		V.2501	Amended	Jan.	65	
	XI.2403,2405,2407,2415	Amended	Sept.	2045		V.2501	Amended	Mar.	512	
	XIII.2521,2523,2524	Repealed	June	1268		V.2711	Amended	Aug.	1781	
	XIII.2707,2717,2723	Amended	May	1018		V.5313,5513,5713,5913,6115	Amended	June	1250	
43	VI.103,307	Amended	Feb.	326		V.5313,5513,5713,5913,6115	Amended	Sept.	2041	
	XIX.313	Amended	June	1264		V.5317,5517,5719,5917,6119	Amended	Sept.	2041	
	XIX.545	Amended	May	1017		V.6105	Adopted	Jan.	67	
	XIX.801,803,805,807,809	Adopted	July	1562		V.6105	Amended	Aug.	1782	
					VII.1305	Amended	July	1556		
46	I.1301	Amended	Aug.	1780	VII.1305	Amended	Aug.	1782		
	V.101,103,105,501,505,507	Amended	July	1545	VII.1305,1309	Amended	Feb.	325		
	V.107,109,301,303,305,307	Adopted	July	1545	VII.1305,1309	Amended	Mar.	520		
	V.113,115,17011703,1901	Repealed	July	1545	VIII.32903	Amended	July	1555		
	V.509,513,703,705,709,713	Amended	July	1545	IX.327,329,331	Amended	May	1016		
	V.717,719,721,729,747,901	Amended	July	1545	IX.501	Adopted	Jan.	68		
	V.1101,1103,1105	Amended	July	1545	IX.15103	Repealed	June	1252		
	V.1301,1303,1305	Adopted	July	1545	IX.15111	Repealed	June	1251		
	V.1903,1905	Repealed	July	1545	IX.15113	Adopted	June	1252		
	XI.108	Amended	May	992	IX.15131,15133,15135	Adopted	June	1251		
	XI.108,123,125,135,305,307	Amended	Apr.	756	XI.6901,6903	Amended	Sept.	2040		
	XI.108	Repromulgated	June	1242	XIII.8501,8503	Adopted	Mar.	512		
	XI.111	Adopted	Apr.	756	XIII.10301	Amended	June	1247		
	XI.321,705,725,737	Amended	Apr.	756	XIII.10301	Amended	Sept.	2041		
	XXI.901	Amended	Aug.	1780	XV.401,403,405	Adopted	June	1249		
	XXXIII.116	Amended	Jan.	63	XV.901	Amended	June	1249		
	XXXIII.312,314	Repealed	Sept.	2035	XV.6705	Amended	Apr.	759		
	XXXIII.313	Adopted	Sept.	2035	XV.6905	Amended	Sept.	2040		
	XXXIII.1611,1613,1713	Amended	Sept.	2035	XV.10701,11101,11103	Amended	Aug.	1783		
	XXXIII.1713	Adopted	Jan.	63	XV.12917	Amended	June	1251		
	XLV.402,449	Amended	June	1243	XV.16107	Amended	Sept.	2044		
	XLV.6504	Adopted	June	1243	XV.25701	Amended	June	1250		
	XLV.8301,8303,8305,8307	Repealed	June	1243	XV.27501,27503,27701,27901	Adopted	July	1557		
	XLV.8309,8311	Repealed	June	1243	XV.28101	Adopted	July	1557		
	XLVII.3341	Amended	June	1245	XVII.301	Amended	Mar.	520		
	XLVII.3419	Amended	June	1244	XVII.501	Repromulgated	Mar.	521		
	XLVII.3515	Amended	June	1245	XVII.501	Amended	June	1253		
	XLVII.3707	Adopted	Jan.	64	XIX.4329,4334,4335,4337	Amended	June	1248		
	LIII.709	Adopted	Apr.	755	XIX.4501	Amended	Aug.	1781		
	LIII.1123	Amended	Apr.	755	XXI.11303,12101	Amended	Feb.	324		
	LIII.2523	Amended	Apr.	756	XXI.13704	Adopted	Jan.	65		
	LIII.2901	Amended	Apr.	755	XXI.14301	Amended	June	1247		
	LVII.510	Adopted	Apr.	764	XXV.503	Amended	Sept.	2039		
	LIX.409	Amended	Jan.	72	XXVII.325	Amended	June	1248		
	LXI.1315,1501,2103	Amended	May	1033	XXIX.123,991	Adopted	Aug.	1782		
	LXIII.301,303,305,307,703	Amended	May	1005	XXIX.901,925,935,945,949	Amended	July	1558		
	LXIII.401,403,405,407,409	Repealed	May	1005	XXIX.915,917,919,921,923	Adopted	July	1558		
	LXIII.411,413,415	Repealed	May	1005	XXIX.963	Amended	July	1558		
	LXIII.801,805,901,1001	Amended	May	1005	51	II.105	Repromulgated	June	1253	
	LXIII.1002,1103,1501,1503	Amended	May	1005		XII.317	Adopted	Jan.	68	
	LXIII.1101	Amended	June	1246		52	I.1312	Adopted	July	1463
LXX.Chapters 61-65	Amended	Mar.	493	I.1318,1319,1320			Amended	Feb.	232	
LXX.Chapters 66-67	Repealed	Mar.	493	I.1322			Adopted	Feb.	232	
LXX.15001,15003,15005	Adopted	May	984	I.1703			Adopted	Feb.	304	
LXX.15201-15225	Adopted	May	984	I.1703			Amended	July	1466	
LXXXV.403,409,413,811,1227	Amended	Feb.	319	55			I.Chapter 15	Amended	Mar.	550
XCI.105	Amended	Feb.	321				I.1913	Amended	June	1270
XCI.301,311	Amended	Feb.	322							

LAC Title	Part.Section	Effect	Location		LAC Title	Part.Section	Effect	Location	
			LR 36 Month	Page				LR 36 Month	Page
55	I.1947	Amended	Mar.	546	67	III.5121,7302,7303,7305,7355	Amended	Feb.	332
	I.Chapter 31	Adopted	Mar.	536		III.7302,7304,7355,7357	Amended	Apr.	847
	III.813	Amended	Aug.	1789		III.7303,7359	Amended	Apr.	831
	V.103,303	Amended	July	1563		III.7303,7359	Repromulgated	June	1272
	V.2701,2703,2705,2707	Amended	May	1020		III.7303,7359	Amended	June	1279
	V.2713,2715,2717,2719	Amended	May	1020		III.7357,7359,7361	Amended	Feb.	332
	V.2721,2723,2729,2735	Amended	May	1020		V.1103,1105,6503,6705,6955	Amended	Apr.	838
	V.2725,2737	Adopted	May	1020		V.3501	Amended	Jan.	73
	VI.505,701,703,705,707,901	Repromulgated	Feb.	326		V.Chapter 41	Adopted	Mar.	552
	VI.903,905	Repromulgated	Feb.	326		V.6101-6117,6901-6935	Repealed	Apr.	784
VI.905	Adopted	June	1271	V.6103,6507,6703,6905,6955	Amended	Apr.	831		
58	I.3117	Adopted	Sept.	2050	V.6103,6507,6703,6905,6955	Repromulgated	June	1272	
					V.6115,6709,6903,6905,6909	Amended	Feb.	329	
61	I.1601-1613	Adopted	Jan.	52	V.6301-6341,6501-6569	Amended	Apr.	784	
	I.1631-1639	Amended	Feb.	304	V.6503,6705,6955,7107	Amended	July	1462	
	I.1661,1663,1665,1667,1669	Amended	Sept.	1981	V.6701-6717	Amended	Apr.	784	
	I.1671,1673	Adopted	Sept.	1981	V.6709	Repromulgated	May	1029	
	I.1701	Repealed	Feb.	329	V.6953,6955,6959	Amended	Feb.	329	
	I.1907	Amended	Sept.	2047	V.6955	Repromulgated	May	1031	
	I.1909	Adopted	Aug.	1790	V.7101-7123	Adopted	Apr.	784	
	I.4401	Amended	May	1028	V.7107	Adopted	Apr.	838	
	I.4401	Amended	July	1566	76	III.337	Adopted	June	1280
	III.1525	Adopted	June	1271		V.127	Amended	Jan.	74
	III.2501	Amended	Jan.	72		V.131	Adopted	Apr.	852
	III.2503	Adopted	Mar.	552		VII.199	Amended	June	1280
	III.5103	Repromulgated	Aug.	1767		VII.329	Amended	Jan.	77
	V.101,303,304,703,901,907	Amended	Apr.	765		VII.335	Amended	Aug.	1791
	V.1103,1305,1307,1503,2503	Amended	Apr.	765		VII.367	Amended	Jan.	77
	V.3101,3103,3105,3106,3107	Amended	Apr.	765		VII.373	Adopted	May	1034
				XIX.101,103		Amended	July	1580	
				XIX.105		Amended	Sept.	2051	
				XIX.111	Amended	July	1566		
67	I.201,203,301,303,305,307,309	Adopted	Apr.	850					
	III.2301,2509,2801	Amended	Jan.	74					
	III.Chapter 51	Amended	Mar.	555					
	III.5102,5103,5104,5109	Amended	June	1277					
	III.5102,5103,5105,5107,5109	Amended	Apr.	844					

Potpourri

POTPOURRI

**Department of Health and Hospitals
Office of Public Health
Center for Community Preparedness**

Centers for Disease Control and Prevention Public Health
Emergency Preparedness Cooperative Agreement Budget
Period 10 Extension (2010-2011)

Notice is hereby given that the Department of Health and Hospitals, Office of Public Health, Center for Community Preparedness has been awarded the Public Health Emergency Preparedness grant under a continuation application for the 6th year of a 5 year cooperative agreement. Budget period 10 Extension is an extension year of the pre-established 5 year cooperative agreement.

The Office of Public Health is soliciting public comment and feedback for possible incorporation into next year's grant application and grant activities and on the Centers for Disease Control Public Health Emergency Preparedness Cooperative Agreement guidance. The purpose of the CDC PHEP funding is to improve and increase capabilities for all hazards emergency preparedness and response including but not limited to an anthrax attack, pandemic influenza, hurricanes, flooding, etc. The DHH OPH Center for Community Preparedness (CCP) provided public health expertise and resources to its partners and the community during emergency response efforts through the use of the CDC PHEP grant funding. The DHH/OPH CCP manages the funds received through the CDC PHEP Cooperative Agreement to implement several emergency preparedness programs that increase response capabilities and service the entire population of Louisiana such as Louisiana Volunteers in Action, Strategic National Stockpile/Cities Readiness, CHEMPACK, and Public Health Information Network. The CCP provides its services in accordance with the National response Framework for local, state and national partners using National Incident Command System compliance standards for emergency response operations.

The public is encouraged to respond to this notice. Continuous feedback is welcomed.

This cooperative agreement will last approximately one year from August 2010 to August 2011. Any questions concerning this notice may be also addressed to Doris G. Brown, Principle Investigator, by mail at 8919 World Ministry Ave. Ste. B Baton Rouge, LA 70810 or by phone at (225) 763-3503.

Anthony Keck
Secretary

1010#080

POTPOURRI

**Department of Natural Resources
Office of Conservation**

Orphaned Oilfield Sites

Office of Conservation records indicate that the Oilfield Sites listed in the table below have met the requirements as set forth by Section 91 of Act 404, La. R.S. 30:80 et seq., and as such are being declared Orphaned Oilfield Sites.

Operator	Field	District	Well Name	Well Number	Serial Number
Frank L. Collier	Grand Cane	S	H S Rogers et al	001	42053
Rault, Lake & Bridewell	Wildcat-So La New Orleans Dis	L	F Sheridan Young	001	88002
Richard T. Perry	Monroe	M	Pilgreen	002	152608
J. P. Owen et al	Wildcat-So La Lafayette Dist	L	Mrs Jane H Schwing et al	001	72334
C & B Exploration Company, Inc.	Mira	S	Fannie P Colquitt et al	001	194715
Zwolle Syndicate	Blue Lake	S	Mansfield Hardwood Lbr Co	001	21453

James H. Welsh
Commissioner

1010#056

POTPOURRI

**Department of Public Safety and Corrections
Oil Spill Coordinator's Office**

Restoration Planning—Discharge of Oil from the Deepwater Horizon Mobile Offshore Drilling Unit and the Subsea Macondo Well

Notice of Intent to Conduct Restoration Planning (pursuant to 15 C.F.R. Section 990.44)—Discharge of Oil from the Deepwater Horizon Mobile Offshore Drilling Unit and the Subsea Macondo Well into the Gulf of Mexico, April 20, 2010

Summary

On or about April 20, 2010, the mobile offshore drilling unit Deepwater Horizon experienced a significant explosion,

ire and subsequent sinking in the Gulf of Mexico, resulting in discharges of oil and other substances from the rig and from the wellhead on the seabed into the Gulf of Mexico (referred to as the "Deepwater Horizon Incident or Incidents"). These discharges are estimated to have been in excess of thousands of barrels of oil per day and continue, along with associated removal activities, to adversely affect and threaten natural resources within the jurisdictions of the United States and the States of Louisiana, Mississippi, Alabama, Florida, and Texas.

Pursuant to section 1006 of the Oil Pollution Act ("OPA"), 33 U.S.C. §§ 2701, et seq., federal and state trustees for natural resources are authorized to (1) assess natural resource injuries resulting from a discharge of oil or the substantial threat of a discharge and response activities, and (2) develop and implement a plan for restoration of such injured resources. The federal trustees are designated pursuant to the National Contingency Plan, 40 C.F.R. Section 300.600 and Executive Order 12777. State trustees are designated by the Governors of each state pursuant to the National Contingency Plan, 40 C.F.R. Section 300.605. The following agencies are designated natural resources trustees under OPA and are currently acting as trustees for this Incident(s): the United States Department of the Interior ("DOI"), as represented by the National Park Service, United States Fish and Wildlife Service, Bureau of Indian Affairs, and Bureau of Land Management; the National Oceanic and Atmospheric Administration ("NOAA"), on behalf of the United States Department of Commerce; the United States Department of Defense ("DOD"); the State of Louisiana's Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries and Department of Natural Resources; the State of Mississippi's Department of Environmental Quality; the State of Alabama's Department of Conservation and Natural Resources and Geological Survey of Alabama; the State of Florida's Department of Environmental Protection; and the State of Texas' Parks and Wildlife Department, General Land Office and Commission on Environmental Quality, (collectively, the "Trustees"). In addition to acting as trustees for this Incident(s) under OPA, the States of Louisiana, Mississippi, Alabama, Florida and Texas are also acting pursuant to their applicable state laws and authorities, including the Louisiana Oil Spill Prevention and Response Act of 1991, R.S. 30:2451 et seq., and accompanying regulations, La. Admin. Code 43:I.101 et seq.; the Texas Oil Spill Prevention and Response Act, Tex. Nat. Res. Code, Chapter 40, Section 376.011 et seq., Fla. Statutes, and Section 403.161, Fla. Statutes; the Mississippi Air and Water Pollution Control Law, Miss. Code Ann. §§49-17-1 through 49-17-43; and Alabama Code §§9-2-1 et seq. and 9-4-1 et seq.;

The Responsible Parties ("RPs") identified for this Incident(s) thus far are BP Exploration and Production, Inc. ("BP"); Transocean Holdings Inc. ("Transocean"); Triton Asset Leasing ("Triton"); Transocean Offshore Deepwater Drilling Inc. ("Transocean Offshore"); Transocean Deepwater Inc. ("Transocean Deepwater"); Anadarko Petroleum ("Anadarko"); Anadarko E and P Company LP

"Anadarko E&P"); and MOEX Offshore 2007 LLC ("MOEX"). Pursuant to 15 C.F.R. 990.14(c), concurrent with the publication of this Notice, the Trustees are inviting the RPs identified above to participate in a Natural Resource Damage Assessment ("NRDA"). The Trustees have coordinated with BP representatives on activities undertaken to date as part of the NRDA process.

The Trustees began the Preassessment Phase of the NRDA in accordance with 15 CFR 990.40, to determine if they had jurisdiction to pursue restoration under OPA, and, if so, whether it was appropriate to do so. During the Preassessment Phase, the Trustees collected and analyzed and are continuing to collect and analyze the following: (1) data reasonably expected to be necessary to make a determination of jurisdiction or a determination to conduct restoration planning, (2) ephemeral data, and (3) information needed to design or implement anticipated emergency restoration and assessment activities as part of the Restoration Planning Phase.

Under the NRDA regulations applicable to OPA, 15 CFR Part 990 ("NRDA regulations"), the Trustees prepare and issue a Notice of Intent to Conduct Restoration Planning ("Notice") if they determine conditions that confirm the jurisdiction of the Trustees and the appropriateness of pursuing restoration of natural resources have been met.

Pursuant to 15 CFR 990.44, this Notice announces that the Trustees have determined to proceed with restoration planning to fully evaluate, assess, quantify and develop plans for restoring, replacing or acquiring the equivalent of natural resources injured and losses resulting from the *Deepwater Horizon* Incident or Incidents. The restoration planning process will include collection of information that the Trustees determine is appropriate for identifying and quantifying the injuries and losses of natural resources, including resource services, and to determine the need for, and type and scale of restoration actions.

Supplementary Information:

Determination of Jurisdiction

The Trustees have made the following findings pursuant to 15 CFR 990.41:

1. The explosion on the mobile offshore drilling unit *Deepwater Horizon* on April 20, 2010, and other associated occurrences, resulted in discharges of oil into and upon navigable waters of the United States, including the Gulf of Mexico, as well as adjoining shorelines, all of which constitute an "Incident" or "Incidents" within the meaning of 15 CFR 990.30.

2. The ongoing discharges are not permitted pursuant to federal, state, or local law; are not from a public vessel; and are not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, 43 U.S.C. §§1651 et seq.

3. Natural resources under the trusteeship of the Trustees have been and continue to be injured and/or threatened as a result of discharged oil and associated removal efforts. The discharged oil is harmful to natural resources exposed to the oil, including aquatic organisms, birds, wildlife, vegetation, and habitats. Discharged oil and the response activities to address the discharges of oil have resulted in adverse effects on natural resources in and around

the Gulf of Mexico and along its adjoining shorelines, and impaired services that those resources provide. The full extent of potential injuries is currently unknown, and may not be known for many years; however, current natural resources and resource services that have been impacted due to the discharged oil include but are not limited to the following (as of August 19,2010):

- Over 950 miles of shoreline habitats, including salt marshes, sandy beaches, and mangroves.
- A variety of wildlife, including birds, sea turtles, and marine mammals. As of June 29, 2010:
 - Over 1,900 oiled birds captured and over 1,850 visibly oiled dead birds collected.
 - Over 400 oiled sea turtles captured and 17 visibly oiled dead sea turtles collected.
 - 5 visibly oiled dead marine mammals collected.
- Lost human use opportunities associated with various natural resources in the Gulf region, including fishing, swimming, beach-going and viewing of birds and wildlife.
- Waters of the Gulf of Mexico and adjoining coastal states.
- Various other biota, including benthic communities and fish.
- Water column habitat.

Accordingly, the Trustees have determined they have jurisdiction to pursue restoration under the OPA.

Determination to Conduct Restoration Planning

Pursuant to 15 CFR 990.42(a), the Trustees determined that:

1. Observations and data collected pursuant to 15 CFR 990.43 demonstrate that injuries to natural resources and the services they provide have resulted from the Incident or Incidents; however, the nature and extent of such injuries has not been fully determined at this time. The Trustees have identified numerous categories of impacted and potentially impacted resources, including fish, shellfish, marine mammals, turtles, birds and other sensitive resources as well as their habitats, such as wetlands, marshes, beaches, mudflats, bottom sediments, corals and the water column as well as effects to human use resulting from the impacts on the resources. The Trustees have been conducting and continue to conduct, activities to evaluate injuries and potential injuries within these categories. More information on these resource categories will be available in the Administrative Record ("AR," as defined below), including assessment work plans developed jointly by the Trustees and BP and information gathered during the preassessment. The full nature and extent of injuries will be determined during the injury assessment phase of restoration planning.

2. Response actions employed for this spill include in situ burning, dispersant applications, containment and skimming of oil, and removal operations. These response actions have not addressed and are not expected to address all injuries resulting from the discharges of oil. Although response actions were initiated soon after the explosion and continue to date, they have been unable to prevent injuries to many natural resources, and the size, nature and location of

the discharges have prevented recovery of most of the oil. In addition, some of these response actions have caused or are likely to cause injuries to natural resources and the services they provide, including destruction of sensitive marshes, beaches, and other habitats and impacts to human uses of resources. While injured natural resources may eventually naturally recover to the condition they would have been in had the discharges not occurred, interim losses have occurred, or are likely to occur in the future, and these will continue until baseline conditions are achieved. In addition, there have been and will continue to be losses of and diminution of human uses of the resources resulting from the impacts to the natural resources and from the response actions themselves.

3. Feasible restoration actions exist to address the natural resource injuries and losses, including lost human uses, resulting from the discharges of oil. Assessment procedures are available to scale the appropriate amount of restoration required to offset these ecological and human use service losses. During the restoration planning phase, the Trustees will evaluate potential projects, determine the scale of restoration actions needed to make the environment and the public whole, and release a draft Restoration Plan for public review and comment. Based upon these determinations, the Trustees intend to proceed with restoration planning for the Incident or Incidents.

Administrative Record

The United States Department of the Interior, acting on behalf of the Trustees, is in the process of establishing and opening an Administrative Record ("AR") in compliance with 15 CFR 990.45 and applicable state authorities. The AR will be publicly accessible and include documents considered by the Trustees during the preassessment, assessment, and restoration planning phases of the NRDA performed in connection with the Incident or Incidents. The AR will be augmented with additional information over the course of the NRDA process. The availability of the AR will be addressed in one or more future notices and announcements. State-specific ARs may also be kept and will be made available by state trustees in their normal course of business.

Opportunity to Comment

The Trustees invite the public to participate in restoration planning for this Incident or Incidents in accordance with 15 CFR 990.14(d) and state authorities. The Trustees will be providing substantial opportunities for public involvement in the restoration planning for this Incident or Incidents. The opportunities for public involvement will be addressed in future notices and announcements.

Adoption by Natural Resource Trustees

The undersigned, on behalf of their agencies as designated natural resource Trustees, hereby adopt the foregoing. This document may be signed in counterparts. A copy with all original executed signature pages affixed shall constitute the original.

Roland Guidry
Coordinator

1010#009

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