

CONTENTS

I. EXECUTIVE ORDERS	
E.O. No. 94—Creates the Louisiana Student Government Commission	514
II. EMERGENCY RULES	
Health and Human Resources Administration, Division of Family Services—Revises policy relative to the confidentiality of information, to conform to State law	515
Wildlife and Fisheries Commission—Closes Lake Bistineau (Bossier, Webster, Claiborne Parishes) to all fish netting except minnow seines.	516
III. RULES	
Agriculture, Department of, Milk Division—Amends Production Marketing Areas No. 1 and No. 2	516
Cemetery Board—Establishes description of the Board and regulations for its operation	518
Colleges and Universities, State Board of Trustees—Establishes bylaws and policies and procedures governing the institutions operating under the authority of the Board	526
Elementary and Secondary Education, Board of—Amends the Policy and Procedure Manual	541
Fire Fighting Personnel Standards and Education, Commission on—Establishes requirements for Fire Instructor I and performance evaluation requirements for Fire Fighter II	544
Health and Human Resources Administration—Establishes minimum standards for the license of <u>adult day care</u> centers	555
Health and Human Resources Administration—Establishes regulations for chemical tests for intoxication.	562
Health and Human Resources Administration—Defines skills, knowledge, and experience for water and sewage works operators	575
Health and Human Resources Administration, <u>Division of Family Services</u> —Increases the resource limitations in the General Assistance Program	586
Insurance, Commissioner of—Establishes Rule No. 2—Malpractice Self-Insurance	586
Public Works, Department of—Establishes regulations and standards for water well construction	587
Revenue, Department of—Promulgates Louisiana income tax regulations	601
IV. NOTICES OF INTENT	
Air Control Commission	606
Architects Selection Board, Engineers Selection Board, Landscape Architects Selection Board	606
Chiropractic Examiners, Board of	606
Civil Service, Department of	606
Consumer Protection Division, Governor's	613
Elementary and Secondary Education, Board of	613
Engineers and Land Surveyors, Professional, Board of Registration for	616
Fire Fighting Personnel Standards and Education, Commission on	616
Health and Human Resources Administration, Division of Family Services	616
Higher Education Assistance Commission.	617
Intergovernmental Relations, Commission on	617
Pardons, Board of	617
Racing Commission, State	618

Executive Orders

EXECUTIVE ORDER NO. 94

WHEREAS, the State of Louisiana is committed to the improvement of higher education for its citizens; and

WHEREAS, it is essential to involve the academic community and its resources in the effort to continually upgrade the quality of higher education offered the citizen-consumers of Louisiana; and

WHEREAS, it is necessary for this purpose to increase student knowledge of and participation in the decisions which most affect them as the citizen-consumers of higher education; and

WHEREAS, carefully structured experiential learning is a recognized educational advantage; and

WHEREAS, mutual benefits to higher education and State government will accrue from a service-learning relationship;

NOW, THEREFORE, I hereby create the Louisiana Student Government Commission, to be composed of the presidents of the student government associations representing each four-year degree granting public college and university, for the purpose of collecting information and reports relative to student affairs from State agencies and institutions, publishing an official publication, and serving as an advisory board on student affairs to the Board of Regents, the L.S.U. Board of Supervisors, the Southern Board of Supervisors and the State Board of Trustees.

AND BE IT FURTHER RESOLVED, I do hereby establish a Student Internship Program to be administered by the Board of Regents. At a minimum, the program is to strive for academic excellence and faculty review of student participants' performance.

The Board shall provide stipends not to exceed three thousand dollars per semester for each intern. To assist in the administration of the program, the Louisiana Student Government Commission, with the concurrence of the Board of Regents, shall name a committee of academic deans/vice presidents or their representatives to propose criteria for the selection and placement of student interns and faculty review of their on-the-job performance; to determine in the case of each intern whether credit will be allowed, and if credit is to be allowed, to what extent. Each intern shall submit a

written report each semester to the Committee outlining the nature of his activities and their relevance to the degree he is pursuing. The Student Government Commission shall conduct a survey of State agencies periodically to determine the agencies' needs for interns and what qualifications each agency would require. The results of all surveys shall be forwarded to the Board of Regents at a time it specifies. The Board of Regents, after reviewing the results of the survey and the qualifications of interns recommended by the Committee of Academic Deans/Vice Presidents, shall determine the State agencies in which interns shall be placed. The Board of Regents, with the advice and consent of the Committee of Academic Deans/Vice Presidents, and the Louisiana Student Government Commission, shall establish criteria for the selection of interns, but once the criteria are approved, the final selection of interns shall be determined solely by the Committee of Academic Deans/Vice Presidents, provided, however, that the Committee shall not approve an intern who fails to meet the criteria. Funds appropriated for operating expenses of the Louisiana Student Government Association, as provided in Act 16 of the Regular Session of 1975, shall be used to defray expenses of the Student Government Commission and the Student Intern Program. The Division of Administration shall assign quarters to the Commission. The Louisiana Student Government Commission shall employ an Executive Director whose salary shall not exceed twelve thousand dollars per year and shall employ a secretary. The Board of Regents shall retain five thousand dollars of the funds appropriated to defray costs of administering the student intern program. The agencies receiving interns shall pay the minimum stipend of one hundred twenty-five dollars per month.

IN WITNESS WHEREOF, I have hereunto set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this the 3rd day of December, A.D., 1975.

EDWIN EDWARDS

Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Louisiana Health and Human Resources Administration Division of Family Services

The Louisiana Health and Human Resources Administration, Division of Family Services, due to the amendment to R.S. 46:65 in the past legislative session, is revising policy relative to the confidentiality of information so as to conform to current State law. The revised policy provides the following:

- A. Applications for assistance, and information contained in case records of clients of the Division of Family Services of the Louisiana Health and Human Resources Administration, shall be confidential and that it shall be unlawful for any person to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of applications or client case records or the information contained therein for any purpose not directly connected with the administration of the Family Services program.
- B. Publication of lists of names of clients or applicants is prohibited.
- C. The following information shall not be subject to waiver, and shall not be released to applicants, recipients, or outside sources, except those outside sources engaged in the administration of the Family Services program:
 - (1) Records pertaining to foster care of children, investigations of abuse or neglect of children, and other child welfare services.
 - (2) Information furnished to the Division of Family Services by persons, governmental agencies, or other legal entities when such furnisher of information is subject to a confidentiality statute or regulation which prohibits release of such information to an outside source. For this provision to be applicable the limitations of the furnisher's confidentiality statute should be indicated on the material.
 - (3) Information in case records pertaining to Food Stamp Program.
 - (4) Information contained in applications for as-

sistance and case records that is furnished to law enforcement agencies or courts to aid in the prosecution of criminal offenses related to any Family Services program.

- (5) Information pertaining to adoption of children shall be strictly confidential and shall not be released to courts of competent jurisdiction in accordance with existing laws.
- (6) Information pertaining to foster care of children, reports and investigations on abuse or neglect of children, and records of other child welfare services, shall not be subject to subpoena in any judicial proceeding for legal separation, for divorce, or for custody of children incidental to a proceeding for legal separation or divorce; and in the event of the issuance of a subpoena for such information, or for any representative or employee of the Louisiana Health and Human Resources Administration to testify concerning an applicant or client in any such proceeding, the court's attention shall be called to this.
- D. Confidential information may be released to an outside source, not directly connected with the administration of Family Services programs, only upon written request of the outside source and only after written waiver by the applicant, client, or his legal representative. Governmental authorities, the courts, and law enforcement agencies shall be considered the same as any other outside source. Confidential information may be released to an applicant, client, or his legal representative, provided that the applicant, client, or legal representative will be required to complete and sign a written waiver.

Because of the change in state law and the widespread effect this change will have, the policy is being amended effective December 1, 1975, under an emergency rule. This action was taken pursuant to R.S. 49:953 B. Copies of the emergency rule are available for public examination at the offices of the Louisiana Health and Human Resources Administration, Division of Family Services, 755 N. Riverside Mall, Room 201, Baton Rouge, Louisiana.

Roy E. Westerfield, Director
Division of Family Services

DECLARATION OF EMERGENCY

Louisiana Wildlife and Fisheries Commission

On November 18, 1975, the Louisiana Wildlife and Fisheries Commission adopted a resolution closing Lake Bistineau (Bossier, Webster, Claiborne Parishes) to all fish netting except minnow seines. This resolution is to be effective November 25, 1975.

The closure of Lake Bistineau to this fishing gear was considered by the Commission to be an emergency in view of the large numbers of fish being taken during the current drawdown period with the water level seven to eight feet below normal pool stage. Another reason for this action is the presence of striped bass. There were 490,000 striper fingerlings released in Bistineau in May, 1975. These fish have a considerable potential for increasing recreational fishing on the lake but are very susceptible to being taken in commercial gear.

Since the 1974 and 1975 fish population samples taken in Lake Bisteneau indicate the commercial fish poundage to be only seven to ten pounds per acre, the Commission was of the opinion no hardship would be imposed on commercial fishermen. This standing crop is to low to support a commercial fishery.

J. Burton Angelle
Director

Rules

RULES

Department of Agriculture Milk Division

(Editor's Note: The following rules were adopted on December 10, 1975, to become effective on the same date that the Federal Orders 1094 and 1096 become effective.)

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. Reduction of the size of the marketing area in Production Marketing Area No. 1. The Greater Louisiana Milk Marketing Area should include all parishes in the State of Louisiana except those now contained in the

New Orleans Marketing Area and the three parishes of St. Tammany, Tangipahoa, and Washington. These conclusions can be reached on the basis of competition among handlers for the sales of packaged Class I products and for the competition of raw milk supplies among handlers that would be regulated under the proposed order and would participate in the marketwide pool.

Handlers regulated by the present Northern Louisiana Federal Milk Marketing Order operate under a marketwide pool under that Federal Order. These regulated handlers sell packaged Class I products in at least thirty-three parishes in Louisiana. These same handlers sell fifty percent or more of the Class I products in at least twenty-four Louisiana parishes. These handlers have more than half the sales in fourteen parishes in addition to all ten of the parishes now included in the Federal Order Marketing Area. Further, these same regulated handlers have more than a third of the sales in an additional four counties. Handlers in Lake Charles, Alexandria, and Lafayette compete directly with handlers in the Northern Louisiana Federal Milk Marketing Order Area. The direct competition between these groups of handlers results in Class I sales shifting from handlers regulated by Federal Order to handlers regulated only by State Order. Hence, producers may, from time to time, share in certain sales and lose these to other producers primarily due to competition among handlers. Hence, in order to have the continuous and equitable sharing, all of this area should be in the same marketing area that is regulated by a common marketwide pool.

2. Changing the pooling arrangements from an individual handler pool to a marketwide pool in Production Marketing Area No. 1. The evidence presented at the public hearing held on September 11, 1975 demonstrates the need for a marketwide pool in the proposed marketing area. Pooling of returns to producers on an individual handler basis, as presently provided for, does not permit the reserve milk supply for the market to share equitably in the Class I sales on a year-round basis; does not encourage or permit the most efficient handling of the market's milk supply; and results in different blend prices among producers supplying the market.

Almost without exception, when there is an excess supply of milk in an individual handler's plant, it is the cooperative's members who are asked by the handler to handle this extra milk. The cooperative must dispose of such milk as best it can; pay transportation and handling costs for moving the milk, and generally bear the total burden of the excess reserve supply for the market. Under individual handler pooling, when milk is moved out of a plant, such milk does not share in the returns

from the Class I sales of such handler. The associated producer provisions of the current State Order provide some degree of sharing when milk is moved out of these plants. However, such procedures are cumbersome and do not result in full equity in sharing of Class I sales in the market. Under an individual handler pool, milk dealers tend to receive only enough milk at their plants to meet immediate needs for fluid use and use in products such as cottage cheese. Milk dealers in Louisiana rely on cooperatives in varying degrees to meet their day-to-day and season-to-season fluctuation in supply needs. They arrange for the cooperative associations to supply them with milk at the time and in the quantities needed. Some milk handlers buy their full supply directly from cooperatives, while others receive some milk directly from producers and supplemental supplies from the cooperatives. In both instances, the cooperatives assume the burden of disposing of that milk which handlers do not have an immediate need for, but which represents a necessary reserve supply for the Greater Louisiana market.

One milk dealer may not need milk on a particular day, while another milk dealer may need an additional quantity on that same day. In these circumstances, the cooperative may take milk that regularly goes to the first dealer and deliver it to the second milk dealer. This is an efficient way of handling milk and tends to maximize fluid utilization on the market. Milk over and above the needs of fluid handlers must be disposed of elsewhere. Ordinarily, such disposition is made by the cooperative associations.

Under the proposed marketwide pool, the cooperatives would have the privilege of diverting extra milk to available outlets and have such milk share in the returns to producers in the marketwide pool. All producers on the market would then share at least part of the burden of the excess reserve of the market.

The existence of a marketwide pool in the New Orleans Marketing Area adjacent to the Greater Louisiana Marketing Area, with an individual handler pool, has created an unsatisfactory situation in Louisiana. Individual handler pooling causes handlers to restrict their purchases to about their plant's Class I needs so as to maintain a blend price at or near the same level as that of their competitors. This practice leaves the cooperative with little alternative but to pool the reserve milk for the Greater Louisiana Marketing Area into the New Orleans marketwide pool. The burden of maintaining the reserve milk supply for individual handler pool markets, such as Greater Louisiana, has rested on the New Orleans market. This further adds to the inequity that the regulations create among producers in Louisiana.

The Dairy Division of the United States Department of Agriculture has issued a recommended decision to extend the Northern Louisiana Area to encompass all of the State of Louisiana except the area recommended to be included in the New Orleans Federal Milk Marketing Order. The recommended decision for the Greater Louisiana Area includes a marketwide pool. If such Federal Order were to become effective for the recommended marketing area, then the provision of marketwide pooling in the Louisiana State Order would certainly make the regulations between the State and Federal government much more compatible. This is another reason why the Greater Louisiana Marketing Area should have a marketwide pool.

The foregoing precisely describes the situation in Louisiana as it relates to milk marketing in the Greater Louisiana Marketing Area and in the New Orleans market as it affects the Greater Louisiana market. Inclusion of a marketwide pool in the Greater Louisiana Marketing Area would add stability and provide needed equity among all producers supplying milk for this market. The record evidence clearly establishes the need for a marketwide pool in this area.

3. Amend the base plan as now contained in Production Marketing Area No. 1. On the basis of evidence in the record, a seasonal base excess plan should be maintained in the Greater Louisiana Milk Marketing Order. Most producers delivering to plants in this area are now operating under a base excess plan. Their production plans for making base for the coming year were established prior to the beginning of the base-forming period, which is September 1st. Certainly, it would not be proper to do away with a base excess plan without giving prior notice to producers. The base excess plan in this area should be continued in order to continue to have incentives for the production of milk during fall and winter months when Class I sales are at their highest relative to production. Such plans should be designed, as it has in the past, to discourage excess production during the spring months when production is seasonally high and Class I sales drop when schools close.

Incorporation of a base excess plan in the State Order for the Greater Louisiana Marketing Area could possibly result in some difference in the payments required of individual producers by the Federal Order marketwide pool without a base plan and the State Order pool with a base plan. Therefore, some provisions need to be made to prevent the base plan from requiring a handler to have a cost of milk higher than the use value of the utilization at this plant. This is particularly necessary whenever such added costs occurs as a result of conditions over which he had no control. For example, it is possible that a producer would have

production of excess milk sufficiently great, that the blend price required by the Federal Order would be greater than the value at the base-excess prices. In other words, the handler would have to pay a higher price under the Federal Order than required by the State Order. Under such conditions, handlers should be given a credit for any payment made as a result of the Federal Order to individual producers above the value calculated for such producers base and excess milk under this proposed State Order.

A base should be calculated for each producer who qualifies as a producer under the proposed order during the first month that this order becomes effective. Assignment of a base to each producer who so qualifies during this first month, would minimize the amount of conflict between this order and the recommended Federal Order for this same area.

A base plan should be made a part of the Greater Louisiana Marketing Order. Any time a handler is required to pay a greater value to a specific producer under the Federal Order than the value calculated as due such producer under this Order, then such handler would be given a credit for that amount in his obligations to the producer-settlement fund. If money is due such handler from the producer-settlement fund, then payments would offset such higher payment required by the Federal Order. After the first month of this Order, any dairy farmer that qualifies as a producer and had not qualified during the first month, that handler will be required to absorb any additional costs under the Federal Order by qualifying that producer under the State Order. Such costs would be borne until the end of the base operating period.

4. Add the parishes of St. Tammany, Tangipahoa, and Washington to Production Marketing Area No. 2. St. Tammany, Tangipahoa, and Washington parishes should not be included in the Greater Louisiana Marketing Area. Rather, these three parishes should be included in the New Orleans Milk Marketing Area. Competition for packaged milk sales and for the procurement of raw milk supplies strongly tie these three parishes to the New Orleans Marketing Area. The main argument of producers supplying plants in this area for having these parishes as part of the Greater Louisiana Area rather than in the New Orleans Area is that they would receive a higher blend price. First, this is not an appropriate basis for defining a marketing area, and, secondly, with the expansion of the New Orleans Federal Milk Marketing Order Area to include the large area of Mississippi, as recommended by the U.S.D.A. in a recent decision, makes it impossible to determine specifically where the higher blend price will be. The parishes of St. Tammany, Tangipahoa, and Washington should be included in the

New Orleans Milk Marketing Area because the community of competition for the sale of packaged milk is between handlers now regulated by the New Orleans Order and local handlers in these three parishes, plus two handlers from Baton Rouge, Louisiana. As indicated by one handler in the record, he competes with five handlers regulated by the New Orleans Order and two from Baton Rouge, Louisiana. One of the Baton Rouge handlers is the Borden Company, which also has a plant in New Orleans. Actual competition is with a distributor now being supplied by the Borden, Baton Rouge plant. This same distributor had previously been supplied out of the New Orleans Borden plant. The shift occurred about the time the New Orleans Federal Order price went above the State Order price. By an administrative decision of the Borden Company, this competition changed quickly and could, by similar decision, revert back to being supplied by the New Orleans handler.

The parishes of St. Tammany, Tangipahoa, and¹ Washington are a significant part of the New Orleans milkshed. Supplemental milk supplies for the local handlers in St. Tammany and Washington Parishes are obtained from the same sources that regularly supply the New Orleans handlers. Further, seasonal surplus of these same local handlers are made to the same manufacturing outlets serving the New Orleans market.

5. Conforming changes in other order provisions. In order to implement a marketwide pool, a number of conforming changes must be made in the Order. These changes involve such provisions as the definition of a pool plane, operation of Producer-Settlement Fund, payments into and out of a Producer-Settlement Fund, and calculation of marketwide blend prices and marketwide uniform base excess prices.

This decision will become effective on the same date the Federal Order 1094 and 1096 becomes effective.

Dave L. Pearce
Commissioner

RULES

Louisiana Cemetery Board

(Editor's Note: The following rules were adopted by the Louisiana Cemetery Board on November 12, 1975, to be effective on December 20, 1975.)

**Description of the Louisiana Cemetery Board
In compliance with R.S. 49:952(1)**

The Louisiana Cemetery Board was created by Act 417 of 1974 of the Louisiana Legislature. This Act now constitutes Title 8 of the Louisiana Revised Statutes, consisting of Chapters 1 through 13, both inclusive, Sections 1 through 904, both inclusive.

The Board is composed of seven members appointed by the Governor. Five of the members of the Board shall be from each Public Service Commission district existing at the time of their appointments, and two of the members shall be from the public at large. All seven members shall be residents of the State of Louisiana. The five members to be appointed from the existing Public Service Commission districts shall be selected by the Governor from lists submitted to him by the Louisiana Cemeteries Association, Inc. The two at-large members shall not have any direct or indirect interest in either the cemetery or funeral business. Appointments shall be for a four year term, except for the initial members of the Board whose terms shall be as set forth in R.S. 8:61A.

The domicile of the Board is the Parish of Orleans, where it maintains its administrative office.

The Louisiana Cemetery Board is vested with all of the powers, duties, and responsibilities contained in Title 8, Louisiana Revised Statutes. Generally, the Board enforces and administers the provisions of Title 8. In particular, the Board receives and processes applications for certificates of authority, licenses to engage in the business of a cemetery sales organization and/or a cemetery management organization, inspects and examines perpetual or endowed care funds of perpetual or endowed care cemeteries, examines the reports of merchandise trust funds, carries out the provisions of Title 8 concerning the issuance, renewal, suspension, revocation, and reinstatement of all certificates and licenses provided for therein, and performs such other functions and duties as are reasonably required in the enforcement and administration of Title 8, Louisiana Revised Statutes.

The public may obtain information or make submissions or requests by writing or otherwise contacting the secretary of the Board at its office in the City of New Orleans. The mailing address of the Board is:

Post Office Drawer 19925
New Orleans, Louisiana 70179.

Rules and Regulations

Part 1 – General Provisions

Section 1. Authority

These rules and regulations are adopted and promulgated by authority of, and in accordance with, the Louisiana Administrative Procedures Act, being Louisiana Revised Statutes, Title 49, Sections 951 through 966, both inclusive, and Act 417 of 1974 of the Louisiana Legislature, being Title 8, Chapters 1 through 13, both inclusive, Sections 1 through 904, both inclusive, of the Louisiana Revised Statutes, as they may from time to time be amended.

Section 2. Definitions

There is incorporated herein by reference all of the definitions set forth and contained in R.S. 49:951 through R.S. 49:966, both inclusive, and in Title 8, Louisiana Revised Statutes. The following words and terms, when used in these rules and regulations, shall have the following meanings unless the text hereof or the definitions contained in the above cited statutes clearly indicate otherwise.

(a) “Board” means the Louisiana Cemetery Board.

(b) “Title 8” or “Louisiana Cemetery Act” means Act 417 of 1974 of the Louisiana Legislature, being all of Title 8 of the Louisiana Revised Statutes, as the same may from time to time be amended.

(c) “Act” or “Louisiana Administrative Procedures Act” means Sections 951 through 966, both inclusive, of Title 49 of the Louisiana Revised Statutes, as the same may from time to time be amended.

(d) “Presiding officer” means the chairperson of the Louisiana Cemetery Board or a member of the Louisiana Cemetery Board appointed by him to preside over a rule-making or adjudication proceeding to be conducted by the Board.

Section 3. Officers of Board

(a) The officers of the Board shall be a chairperson, a vice-chairperson, and a secretary-treasurer. The Board may designate and elect such other officers as it shall determine. All officers shall be elected from among the members of the Board, and shall perform such duties as shall be prescribed by the Board.

(b) Officers shall be elected to serve for a period of one year or until their successors are elected. Their term

of office shall begin at the close of the meeting at which they are elected.

(c) No member shall hold more than one office at a time, except that one member may serve as secretary-treasurer. An officer may serve consecutive terms.

Section 4. Meetings, Quorum

(a) Regular meetings of the Board shall be held at least twice a year, at such times and places as shall be determined by the Board. Special meetings may be called by the chairperson and shall be called upon the written request of any three members of the Board.

(b) Written notice of all meetings shall be sent by the Secretary to each member of the Board at least ten days prior to the date on which the meeting is to be held. In cases of emergency, a minimum of three days notice shall be given.

(c) Four members of the Board shall constitute a quorum.

Section 5. Committees

(a) The Executive Committee shall consist of the officers of the Board.

(b) There shall be the following standing committees:

- (1) Administrative Committee;
- (2) Examination and Inspection Committee;
- (3) Rules and Regulations Committee.

(c) Such other committees, standing or special, shall be appointed by the Board or by the chairperson of the Board, as the Board or chairperson shall from time to time deem necessary to carry on the work of the Board. All appointments to committees, standing or special, other than the Executive Committee, shall be made by the chairperson. The chairperson shall be ex officio a member of all committees, and as such, he shall have the same rights as the other committee members, including the right to vote, but he shall not be counted in determining whether a quorum is present.

Section 6. Parliamentary Authority; Order of Business

(a) The rules contained in the current edition of *Roberts Rules of Order* shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these rules and regulations and any special rules of order or procedure that the Board may adopt. The Board may vary, modify, or deviate from

such rules of order whenever it shall deem it necessary or advisable to do so.

Section 7. Computation of Time

(a) In computing a period of time allowed or prescribed by these rules and regulations, by law or by order of the Board, the date of the act, event or default after which the period begins to run is not to be included. The last day of the period is to be included, unless it is a legal holiday or a day of the weekend, in which event the period runs until the end of the next day which is not a legal holiday or a day of the weekend.

(b) A half-holiday is considered as a legal holiday. A legal holiday or day of the weekend is to be included in the computation of a period of time allowed or prescribed, except when:

- (1) it is expressly excluded;
- (2) it would otherwise be the last day of the period; or
- (3) the period is less than seven days.

Section 8. Amendment of Rules and Regulations

These rules and regulations may be amended, and any such amendments shall become effective, in accordance with and as provided by the Louisiana Administrative Procedures Act, and particularly, but without limitation, R.S. 49:953 and R.S. 49:954.

Section 9. Appearances

(a) No person, except an individual appearing in his own behalf or as a witness on behalf of a party, shall be permitted to participate in any proceeding before the Board unless such person is represented by an attorney of this state in good standing.

(b) Any attorney or counselor from any other jurisdiction, of good standing there, may, at the discretion of the Board be admitted, pro hac vice, to associate with an attorney of this state in a proceeding and to participate therein in the same manner as an attorney of this state, provided, however, that all pleadings, briefs, and other papers filed with the Board in such matters shall be signed by an attorney authorized to practice in this state who shall be held responsible for them and who shall be present at all times during the proceeding unless excused by the presiding officer.

(c) Any person appearing before or transacting business with the Board in a representative capacity may be required by the Board or the presiding officer to file evidence of his authority to act in such capacity.

Section 10. Formal Requirements for Pleadings

(a) All pleadings shall be printed or typewritten and shall be prepared on either letter size or legal size paper.

(b) All pleadings must be signed in ink by the attorneys of record, if any. Pleadings filed by a party acting on his own behalf shall be signed by such party.

(c) All pleadings initiating a proceeding or otherwise seeking affirmative relief, all answers and all petitions of intervention shall be verified, except for those matters initiated or petitions or orders to show cause brought by the Board or upon the motion of the Attorney General of the State of Louisiana.

Section 11. Statutory References in Pleadings

(a) All pleadings, except those filed by the Board, shall cite by appropriate reference the statutory provision or other authority under which the Board's action is sought, and shall refer to any statutes, rules, regulations, decisions, orders, and/or opinions germane to the particular matter or proceeding involved.

Section 12. Ex Parte or Emergency Relief

(a) If a petition or other pleading filed by a person other than the Board seeks ex parte action or the granting of emergency relief pending full hearing, it shall set forth the necessity or emergency for such requested action and must be supported by affidavits to make a prima facie case.

(b) The Board may take emergency action upon compliance with the appropriate provisions of the Louisiana Administrative Procedures Act.

Part 2 – Rule-making Procedure

Section 1. Proceedings by the Board

(a) The Board may initiate proceedings for the promulgation, amendment or repeal of any rule. Such proceedings shall be conducted in accordance with the Louisiana Administrative Procedures Act, and particularly but without limitation, R.S. 49:953 and R.S. 49:954.

(b) The Board will maintain a list of persons who have made timely requests for advance notice of its rule-making proceedings, and will give notice to such persons by certified mail in accordance with R.S. 49:953A(1).

Section 2. Initiation of Proceedings by Interested Persons

(a) Any interested person may petition the Board requesting the adoption, promulgation, amendment, or repeal of a rule. The petition shall be filed by mailing same to the Board at its administrative office in the City of New Orleans.

(b) A petition filed in accordance with this section shall contain the following:

- (1) the names and addresses of the petitioners;
- (2) the names and addresses of the attorneys, if any, of petitioners;
- (3) all pertinent allegations of fact, views, arguments, and reasons supporting the action sought by the petition;
- (4) a statement or prayer expressing the action sought by the petition.

(c) Within ninety days after submission of a petition under this Part 2, the Board shall either deny the petition in writing, stating the reasons for the denial, or shall initiate rule-making proceedings in accordance with the Louisiana Administrative Procedures Act. Such proceedings shall be conducted in accordance with the procedures set forth in R.S. 49:953 and R.S. 49:954.

Part 3 – Certificate or License

Section 1. Applications

(a) All applications for any certificate of authority or license necessary or required by the Louisiana Cemetery Act shall be submitted to and filed with the Board at its administrative office in the City of New Orleans, whether or not the applicant believes himself to be exempt from the provisions of the Louisiana Cemetery Act, and must be accompanied by the charge, fee, or other sum provided for in said Act, which requirement may be waived by the Board. Payment of such charge, fee, or other sum shall be by check or money order made payable to the Louisiana Cemetery Board. If the Board determines that the applicant is exempt from obtaining a certificate of authority or license, it shall so inform the applicant and return to the applicant the charge, fee, or other sum forwarded with the application.

Section 2. Forms and Instructions

(a) All applications required by Section 1 of this Part shall be on the forms provided by the Board, and shall be prepared and filed in accordance with the instructions issued by the Board.

(b) The forms and instructions shall be prepared by the Board and shall contain such instructions and call for such information as may be useful to the Board in the administration and enforcement of the Louisiana Cemetery Act. Forms and instructions may be obtained by any interested party upon written request to the Board.

Section 3. Other Provisions Concerning Certificate or License

(a) A certificate or license shall be valid for the period of time stated thereon, unless it shall have been sooner suspended or revoked. Each certificate of authority for the operation of a cemetery must be displayed on the premises of the cemetery authority, and each license for the conduct of other businesses subject to the provisions of the Louisiana Cemetery Act shall be exhibited on reasonable request.

(b) A certificate of authority may be transferred upon compliance with the provisions of the Louisiana Cemetery Act and particularly, but without limitations, R.S. 8:76. All other licenses provided for by the Louisiana Cemetery Act shall be nontransferable.

(c) All certificates and licenses provided for by the Louisiana Cemetery Act shall be renewed prior to the expiration date shown thereon. Requests for renewal shall be on forms provided by the Board and shall be accompanied by the charge, fee, or other sum fixed by the Board.

(d) Every cemetery authority and every person who has been determined by the Board to be exempt from obtaining a certificate of authority or license, as the case may be, shall immediately notify the Board of any fact, circumstance, condition, or change in status or mode of operation which might result in the loss of the previously granted exemption. The Board may from time to time require submission of such information as it may deem necessary to determine if an exemption previously granted should be continued.

Section 4. Refusal to Grant Certificate or License

(a) If the Board refuses to grant any certificate or license applied for under the Louisiana Cemetery Act, it shall give written notice of its decision, with the reasons therefor, within ten days thereafter.

(b) An applicant for a certificate of authority shall have fifteen days after receipt of notice of the denial in which to initiate an adjudication proceeding. If no such proceeding is initiated, the action of the Board shall be final.

(c) If the Board intends to deny an application for a license to engage in the business of a cemetery sales organization or a cemetery management organization, the Board shall give the applicant for such license the notice required by R.S. 8:406, and shall initiate an adjudication proceeding as otherwise provided for in these rules and regulations.

Section 5. Revocation or Suspension of Certificate or License

(a) Upon receipt of information of facts or conduct that would, in the opinion of the Board, constitute grounds for revocation or suspension of a certificate or license, the Board shall comply with the provisions of the Louisiana Administrative Procedures Act regarding the revocation, suspension, annulment or withdrawal of any license, and particularly but without limitation, R.S. 49:961. A holder of a certificate or license shall have fifteen days from receipt of the notice required by R.S. 49:961C in which to show compliance with all lawful requirements for the retention of his certificate and/or license.

(b) If the Board, after considering all of the facts and information at hand, is of the opinion that the subject certificate or license should be revoked or suspended, it shall issue an order accordingly, which order shall be served upon the certificate holder or licensee in the manner provided for in Part 4, Section 4, of these rules and regulations.

(c) An aggrieved certificate holder or licensee shall have fifteen days after receipt of the order revoking or suspending his certificate or license in which to initiate an adjudication proceeding. If no such proceeding is initiated, the order of the Board shall be final.

Part 4 – Proceedings Other Than Rule-making; General Procedural Rules

Section 1. Proceedings by the Board

(a) Proceedings initiated by the Board, except for the promulgation, amendment, or repeal of a rule, shall be commenced by the issuance of an order to show cause directed to the respondent. Such order shall state the acts, conduct, or the failure or omission to act alleged to be contrary to or in violation of any provision of law or of any of the lawful rules, regulations, orders, decisions, or opinions issued, rendered, and/or promulgated by the Board.

Section 2. Proceedings by Persons Other than the Board

(a) Any person desiring to initiate adjudication proceedings and who is entitled or required by law to do so shall prepare and file with the Board a petition which shall:

- (1) Be in the form and content as set forth in Part 2, Section 2(b);
- (2) State the name and address of each respondent;
- (3) Contain supporting evidentiary material including, whenever applicable and possible, particular reference to the statute, rule, regulation, order, decision, or opinion involved.

(b) Any person desiring to initiate adjudication proceedings but who is not entitled or required by law to do so shall prepare and file with the Board a petition which shall meet the requirements of subparagraph (a) of this Section 2. If the Board shall determine that the petition is filed in good faith, that the petitioner would be entitled to relief if the allegations of his petition are established and that such allegations otherwise justify the initiation of an adjudication proceeding, the Board shall initiate an adjudication proceeding in accordance with this Part 4 of these rules and regulations.

Section 3. Notice

(a) Upon the issuance of an order to show cause by the Board, or upon the initiation of adjudication proceedings pursuant to a petition filed by any person in accordance with this Part 4, the Board shall issue a notice in conformity with the provisions of R.S. 49:955.

(b) The hearing set by such notice shall be fixed not less than twenty nor more than thirty days from the date of such notice.

Section 4. Service of Notice; Pleadings, and Other Documents

(a) Unless otherwise directed by the Board, service of such notice, and of all pleadings, decisions, orders, and other papers and documents shall be made, and shall be deemed valid if made, by delivering one copy to each party or his attorney of record in person or depositing it in the United States mail, first class, postage prepaid, certified or registered mail, return receipt requested, directed to the party or his attorney of record at his post office address. Service by mail shall be deemed complete at the date of mailing.

(b) Unless otherwise provided, when any party has appeared by attorney, service upon such attorney shall be deemed valid service upon the party until notice of

dismissal of such attorney is received in writing by the chairperson of the Board or its subordinate presiding officer and served on all parties of record to the proceeding.

Section 5. Answer or Appearance

(a) A respondent may file his answer or other appearance personally or through an attorney not later than five days before the date fixed for the hearing.

(b) The filing of an answer or other appearance by an attorney constitutes an appearance by the party for whom the pleading is filed, and also constitutes an appearance of the attorney on behalf of such party. An attorney who has appeared on behalf of a party may withdraw from any proceeding upon good cause shown to the Board and upon written notice to the Board.

Section 6. Contents of Answer

(a) The answer shall contain:

(1) A specific admission, denial, or explanation of the matters and things alleged in the order to show cause or the petition, or if the respondent is without knowledge, he shall so state to that effect, such statement operating as a denial; admissions or denials may be to all or part of an allegation but shall squarely meet the substance of an allegation.

(2) A specific detailed statement of any affirmative defense or matter in extenuation or mitigation;

(3) A clear and concise statement of the facts and matters of law relied upon constituting the grounds of the defense or the basis for extenuation or mitigation. Any allegations of the order to show cause or the petition not denied in the answer shall be deemed admitted and may be so found by the Board.

Section 7. Default in Answering or Appearing

(a) In the event of the failure of a respondent to answer or otherwise appear within the time allowed, and provided that these rules and regulations relative to service and notice have been complied with, such respondent failing to answer or otherwise appear shall be deemed to be in default. At the time fixed for the hearing, the party initiating the proceeding shall present its evidence and in due course, and after due consideration of all of the pleadings, evidence and the entire record, the Board shall render its decision or issue its order or ruling, as appropriate.

Section 11. Procedure in Adjudication

(a) In the conduct of an adjudication, as defined in R.S. 49:951(1), the Board shall conform to and comply with, and shall conduct such adjudication in accordance with, the applicable provisions of the Louisiana Administrative Procedures Act, and particularly, but without limitation, R.S. 49:955 through R.S. 49:965, both inclusive, and the terms, conditions, and provisions thereof, dealing with such matters as notice, hearing, records, rules of evidence, oaths and affirmations, subpoenas, depositions and discovery, decisions and orders, rehearings, judicial review, appeals, and all other matters included in such statutory provisions which are specifically incorporated herein and made part hereof as rules and regulations of this Board.

Section 12. Judicial Review of Adjudication

(a) Judicial review of a final decision or order in an adjudication proceeding shall be in accordance with, and is governed by R.S. 49:964.

(b) The party seeking such judicial review shall cause to be prepared, and shall transmit to the reviewing court, the original or a certified copy of the entire record of the proceeding under review. All costs of preparing and transmitting the record for review shall be borne by the party prosecuting such appeal.

Section 13. Informal Proceedings Authorized.

(a) Nothing in these rules and regulations shall be construed as prohibiting the Board from holding informal proceedings, hearings, or conferences for the purpose of aiding the Board in ascertaining and determining facts necessary for the performance of its duties. Any person who is aggrieved by any action or determination of the Board following such an informal proceeding, hearing, or conference, and who is otherwise entitled thereto, may file a petition requesting the promulgation, amendment, or repeal of a rule, or may file a petition to initiate an adjudication proceeding, under applicable provisions of these rules and regulations. Such petition for exercise of the rule-making process or for an adjudication shall be handled by the Board de novo.

Part 5 – Declaratory Orders and Rulings

Section 1. Right to Seek Order or Ruling; Procedure

(a) Any person entitled by law or by these rules and regulations may seek from the Board a declaratory order or ruling on the applicability of any statutory provision or of any rule or order of the Board.

(b) A request for a declaratory order or ruling shall be by petition filed with the Board at its administrative office. Such petition shall set forth in clear and concise language all facts, circumstances and relevant information as to the necessity for such ruling or order, and shall make specific reference to the statutory provision, rule, or order of the Board about which the declaratory order or ruling is requested. Within forty-five days of the receipt of all necessary information from the petitioner for a declaratory order or ruling, the Board shall issue its order or rule; provided, however, that the Board may, if it deems it to be in the public interest, refer the petition for declaratory order or ruling to the Louisiana Attorney General for a formal opinion. In such event, the Board shall render its order or rule, based upon the opinion of the Attorney General, within twenty days from receipt of such Attorney General's opinion.

(c) Pending the issuance of the requested order or rule by the Board, all proceedings and actions connected with the matter submitted to the Board shall be held in abeyance or stayed.

Section 2. Declaratory Judgment for Determining Validity or Applicability of a Rule

(a) The validity or applicability of a rule may be determined in an action for declaratory judgment in the Civil District Court for the Parish of Orleans as provided for in the applicable provisions of the Louisiana Administrative Procedures Act, and particularly but without limitation, R.S. 49:963.

Section 3. Informal Opinions

Nothing in this Part 5 shall be construed as prohibiting the Board from rendering an informal or advisory opinion to any person on any matter arising out of the administration or enforcement of the Louisiana Cemetery Act.

Part 6. – Construction; Divisibility

Section 1. Construction; Divisibility

(a) If any provision of these rules and regulations or the application thereof is held invalid, the remainder of these rules and regulations or other applications of such provisions shall not be affected. No subsequent amendment, modification or revision of these rules and regulations shall be held to supercede or modify the provisions hereof except to the extent that such amendment, modification, or revision shall do so expressly.

John M. Ellis, Jr.
Chairman

RULES

Board of Trustees for State Colleges and Universities

(Editor's Note: The following rules were adopted on November 14, 1975, to be effective December 20, 1975.)

PART I

Bylaws of the Board of Trustees for State Colleges and Universities

Article I

Definitions

- A. College and University System: The term "college and university system," when used in these bylaws, shall refer to the system of campuses governed by the Board of Trustees for State Colleges and Universities, which includes:
1. Delgado Vocational-Technical Junior College at New Orleans
 2. Grambling State University at Grambling
 3. Louisiana Tech University at Ruston
 4. McNeese State University at Lake Charles
 5. Nicholls State University at Thibodaux
 6. Northeast Louisiana University at Monroe
 7. Northwestern State University of Louisiana at Natchitoches
 8. Southeastern Louisiana University at Hammond
 9. University of Southwestern Louisiana at Lafayette
 10. Any other college, university, school, institution, or program now or hereafter under the supervision and management of the Board of Trustees for State Colleges and Universities.
- B. The Board of Trustees for State Colleges and Universities: The "Board of Trustees for State Colleges and Universities," or "Board," as used in these bylaws, shall refer to the governing board of the college and university system and shall be composed of the Board of Trustees, duly appointed and qualified as provided by law.
- C. President of the Board: The term "President of the Board" as used by these bylaws shall refer to the Board member who is duly elected President or Acting President of the Board.

- D. Executive Director of the Board: The term "Executive Director of the Board," or "Director," as used in these bylaws shall refer to the duly appointed Director or Acting Director, who shall be the principal executive officer of the Board.

Article II

Meetings

Section 1. Regular Meetings.

The Board shall meet in regular session at least quarterly.

Section 2. Special Meetings.

Special meetings of the Board may be called by the President of the Board or upon receipt of a written request thereof signed by nine members and specifying the purpose of the desired meeting. Notification shall be sent by mail or telegraph to each member at least five calendar days before the time of the meeting.

Section 3. Quorum.

A majority of the Board shall constitute a quorum for the transaction of business at any regular or special meeting.

Article III

Officers of the Board of Trustees

Section 1. Election of Officers.

At the last regular or special meeting of the Board in the calendar year, the Board shall elect a President and a Vice-President. The President and Vice-President shall be members of the Board. Each of these officers shall hold office for one year or until a successor has been elected.

Section 2. President of the Board.

It shall be the duty of the President to preside at all meetings of the Board, to name the members of all standing and special committees of the Board, and to fill all vacancies in the membership of such committees, in accordance with the provisions of these bylaws.

Section 3. Vice-President of the Board.

In the absence of the President of the Board, it shall be the duty of the Vice-President to perform all duties of the President.

Section 4. Secretary of the Board.

The Executive Director of the Board shall serve as Secretary to the Board, to the Executive Com-

mittee, and to standing and special committees. He shall be appointed by and shall hold office at the pleasure of the Board and shall keep minutes of all Board and committee meetings.

Copies of all minutes, papers, and documents of the Board may be certified to be true and correct copies thereof by the Secretary.

Article IV

Section 1. Rules of Order.

When not in conflict with any of the provisions of this article, *Robert's Rules of Order* (latest revision) shall constitute the rules of parliamentary procedure applicable to all meetings of the Board.

Section 2. Order of Business.

The order of business for regular meetings of the Board shall be as follows:

- A. Roll call and invocation.
- B. Correction and approval of minutes of preceding regular meeting and of all special meetings held subsequent thereto.
- C. Routine business.
- D. Reports and recommendations of standing committees.
- E. Reports and recommendations of special committees.
- F. Reports and recommendations of the Director of the Board.
- G. New business.

Section 3. Meetings.

All regular meetings of the Board shall be open except when otherwise ordered by the Board for the consideration of executive matters. No final or binding action shall be taken in a closed or executive session. At least ten calendar days prior to each regular meeting of the Board, the Director of the Board shall prepare and forward to each member of the Board a tentative agenda for the meeting. The Director shall place a particular item or subject upon the agenda upon the request of any member of the Board. All matters requiring action of the Board, however, may be acted on even though not carried on the agenda.

Section 4. Minutes.

The minutes of the meetings of the Board shall record official action taken upon motions or resolutions which are voted upon by the Board, and may contain a summary of report and pertinent discussion. In all cases when the action is not by a unanimous vote, the "ayes" and "nays" and absten-

tions of the individual members shall be recorded upon the request of any member of the Board. The remarks, personal views, or vote explanations of an individual member shall be included in the minutes only upon his request. The foregoing provisions relative to contents of the minutes shall in general also apply to minutes of committees of the Board. The minutes of meetings of the Board become official only when completed by the Secretary and approved by the Board. Official actions of the Board may be given to the press by the President of the Board or by the Director of the Board, after each meeting and prior to the completion or approval of the minutes.

Section 5. Reference to Committees.

In cases where practicable or desirable, before taking action on any subject or matter clearly within the sphere of any standing committee, the Board may refer such subject or matter to the appropriate committee, which committee shall submit its recommendations in writing together with any appropriate resolutions necessary to implement them.

Article V

Committees

Section 1. Executive Committee.

There shall be an Executive Committee consisting of the President, the Vice-President, and five other members appointed by the President from among the chairmen of the standing committees. The Executive Committee shall consider matters referred to it by the Board, shall execute orders and resolutions assigned to it by the Board, and shall take immediate action if an emergency requiring such action arises between Board meetings. All acts of the Executive Committee shall be submitted to the Board for ratification, or rejection, at its next meeting, except in matters in which the Board shall have delegated to the Executive Committee full power to act. Whenever the Board delegates to the Executive Committee full power to act with respect to any matter, affirmative action by a majority of the entire membership of the Executive Committee shall be required.

Section 2. Standing Committees.

Unless and until otherwise decided by the vote of a majority of the membership of the Board, the standing committees of the Board shall consist of the following:

- A. Finance
- B. Physical Plant
- C. Academic Affairs

- D. Student Affairs
- E. Athletic

Section 3. Appointment and Term.

Members of all standing committees, one of whom shall be designated as chairman and one of whom shall be designated as vice-chairman, shall be appointed by the President of the Board within thirty days following his election as president. The term of committee appointees shall run concurrently with that of the President.

Vacancies occurring among the appointive members of any committees, however arising, shall be filled by the President of the Board for the remainder of the term.

Section 4. Meetings of Standing Committees.

It shall be the duty of the chairman of each committee to call and to preside over the necessary meetings. Whenever a report embodies recommendations for action by the Board, the chairman of the committee shall cause to be prepared appropriate accompanying resolutions.

The secretary of the Board shall keep minutes of all committee meetings. The minutes of each meeting of the committee, showing its action and recommendation, shall comply with the provisions of Article IV, Section 5.

Section 5. Quorum for Committee Meetings.

A majority of the members of any committee of the Board shall constitute a quorum for the transaction of business.

Section 6. Authority of Committees.

The authority of committees of the Board shall be subject to these bylaws and to the policies and direction of the Board.

Section 7. Finance Committee.

The Finance Committee shall consist of at least seven members of the Board. To this committee may be referred all matters related to financial and budgetary operations.

Section 8. Physical Plant Committee.

The Physical Plant Committee shall consist of at least seven members of the Board. To this committee may be referred matters relating to physical plants of the institutions under the control of the Board.

Section 9. Academic Affairs Committee.

The Academic Affairs Committee shall consist of at

least five members of the Board. To this committee may be referred matters concerning academic organization, curricula, personnel, and other matters relating to faculty, scholarships, and other academic affairs.

Section 10. Student Affairs Committee.

The Student Affairs Committee shall consist of at least five members of the Board. To this committee may be referred all matters of policy concerning non-academic matters relating to student welfare.

Section 11. Athletic Committee.

The Athletic Committee shall consist of at least five members of the Board. To this committee may be referred all matters of policy concerning athletic programs.

Section 12. Special Committees.

As the need arises, the Board may create special committees with such function, powers, and authority as it may determine. Special committees shall be established for temporary periods not exceeding the term of the President. Unless otherwise provided by the action of the Board for such a committee, the President of the Board shall determine the number of its members, shall appoint the members, and shall designate the chairman.

Article VI

**Duties, Powers, and Functions of
the Board of Trustees**

Section 1. General Duties.

It shall be the function of the Board to establish and maintain in each of the colleges and universities the highest quality of instruction in the various major branches of knowledge for graduates of the high school courses of study.

Section 2. Other Duties, Powers, and Functions.

In its supervision and management of the colleges and universities comprising the college and university system under its administration the Board shall have authority to:

- A. Sue and be sued, including the right to recover all debts owing to the Board or any university or college under its management, and to retain legal counsel therefor.
- B. Actively seek and accept donations, bequests, or other forms of financial assistance for educational purposes for any public or private person or agency and to comply with rules and regulations governing grants from the Federal