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Executive Orders

EXECUTIVE ORDER NO. DCT 83-26

WHEREAS, it has been reported to me by the Commissioner of Administration that the receipts of the Treasury appear likely to fall short of revenue estimates for the fiscal year 1983-84; and

WHEREAS, continued maintenance of the appropriated levels of expenditure is likely to result in a deficit;

NOW, THEREFORE, pursuant to the authority granted me by Section 10 of Act 14 of the 1983 Regular Session of the Legislature, La. R.S. 39:55, and Article IV, Section 5 of the Constitution of Louisiana, it is hereby ordered that all departments and all budget units not within a department submit revised budgets to the Commissioner of Administration no later than December 6, 1983. The budgets shall reflect a reduction of 5.8 percent. However, as authorized by La. R.S. 39:55 and ad-

ditionally by Section 10 of Act 14 of the 1983 Regular Session, certain appropriations will be reduced in greater amounts, and certain appropriations will be exempt from reduction, all as further directed by me and to be made known through the Commissioner of Administration.

Budget cuts pursuant to this order shall become effective December 16, 1983.

IN WITNESS WHEREFORE, 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 23rd day of November, A.D., 1983.

David C. Treen
Governor of Louisiana

Emergency Rules

DECLARATION OF EMERGENCY

Department of Agriculture
Agricultural Finance Authority

In accordance with the emergency provisions of the Administrative Procedure Act (LSA 49:953 B), notice is hereby given that the Department of Agriculture, Louisiana Agricultural Finance Authority, at a regularly scheduled meeting held on December 8, 1983, determined that an economic emergency presently exists throughout the agricultural community with respect to the non-availability of capital at reasonable interest rates for agricultural purposes. The present emergency in the agricultural community may affect the supply of food for human consumption during the coming year, in that farmers who cannot obtain capital will be unable to produce the food needed by the consumers of this state.

The Authority further determined that, in order to alleviate these emergency conditions to the extent possible, it is necessary to enact certain regulations on an emergency basis.

Therefore, under the authority contained in the provisions of R. S. 3:266, the Authority adopted the following rules and regulations on an emergency basis:

Part I: General Provisions

1.01 Definitions

1. The terms "Authority", "Agricultural Loan", "Agriculture", "Bonds", "Commissioner", "Department", "Federal government", "Lending Institution", "Persons", and "State" are defined in the Act and have the same meaning when used in these Rules as are ascribed to them in the Act.
2. "Act" means Chapter 3-B of Title 3, comprising Sections 261-284, inclusive, of the Louisiana Revised Statutes of 1950, as amended.

3. "Director" means the Director of the Authority when and if appointed by the Authority with the approval of the Commissioner. The Authority may also appoint, with the approval of the Commissioner, an Assistant Director.
4. "Program" means a program established by the Authority pursuant to Rule 2.01 hereof.
5. "Resolution" means a resolution of the Authority.
6. "Rules" means these emergency rules and regulations.

1.02 Acceptance of Aid and Guarantees

In connection with any Program, the Authority, by Resolution may accept financial or technical assistance, including insurance and guarantees, from the Federal or State governments or any Persons; agree to and comply with any condition attached thereto; and authorize and direct the execution on behalf of the Authority of any agreement which it considers necessary or appropriate to implement any such financial aid and technical assistance, insurance, guarantees or other aid. The Authority, by Resolution, may accept any guarantee or commitment to guarantee its Bonds and authorize and direct the execution on behalf of the Authority of any agreement which it considers necessary or appropriate with respect thereto.

Part II: Programs

2.01 Establishment

The Authority, by Resolution, may establish a Program or Programs pursuant to which the Authority may purchase or contract to purchase and sell or contract to sell Agricultural Loans made by Lending Institutions. The Authority, by Resolution, may also establish a Program or Programs pursuant to which the Authority may make or contract to make loans to and deposits with Lending Institutions, provided that any such Program or Programs shall require that all proceeds of such loans or deposits, or an equivalent amount, shall be used by such Lending Institutions to make Agricultural Loans.

2.02 Treatment of Lending Institutions

Any Program established by the Authority shall provide for the fair, impartial, uniform and equitable treatment of all Lending Institutions. The Chairman is hereby authorized to establish such notification and communication procedures and arrangements as he shall determine to be reasonable under the circumstances to provide for effective and efficient information dissemination to Lending Institutions of the availability of the Authority's Programs.

2.03 Program Guidelines

The Authority shall cause guidelines or summary descriptions for or of any Program proposed to be established by the Authority and such shall contain discussions of the scope of such Program, the documentary structure of such Program, the legal requirements for participation by Lending Institutions and their borrowers and the procedures, terms, and conditions under which Lending Institutions may participate in such Programs.

2.04 Assistance

The Authority may provide staff services to assist Lending Institutions in complying with the requirements of the Act and these Rules in connection with any Program. The Chairman may establish a preapplication procedure in connection with any Program and may conduct or cause to be conducted such informational meetings in connection with any Program as he may deem appropriate under the circumstances. Forms to be employed as offers to participate or applications shall be prepared or approved by the Chairman and shall specify the information to be included therein and the supporting materials to be submitted therewith.

2.05 Determinations of Eligibility

The Authority shall review the analysis and recommendations of the Chairman with respect to responses by Lending Institutions concerning a proposed Program and, if the Authority, by Resolution, finds and determines that such responses evidence a demonstrated need for the implementation of such Program in accordance with the requirements of the Act and these Rules, the Authority, by Resolution, may determine to implement the Program.

2.06 Acceptance of Offers to Participate or Applications

The Authority from time to time, by Resolution, shall approve offers to participate or applications submitted by Lending Institutions in connection with a Program. Any such offer to participate or application shall have attached thereto and incorporated by reference therein the form or forms of the loan purchase agreement, loan agreement, depository agreement or other instrument to be entered into by and between the Authority and the Lending Institution under and pursuant to such Program (the "Program Documents"). Forms of the Program Documents and any other instruments relating to the issuance and sale of the Authority's Bonds to be issued for the purpose of providing the funds for the Program shall be prepared, and may be revised and amended, by the Authority under the direction of the Chairman on behalf of the Authority. Any such offer to participate or application shall be a unilateral offer and shall be a binding contract between the Authority and the Lending Institution upon acceptance and notice of acceptance by the Authority. Any such offer to participate or application shall state the aggregate principal amount of the Agricultural Loans which the Lending Institution offers to sell to the Authority or which the Lending Institution agrees to make upon the loan to or deposit with the Lending Institution of funds of the Authority, as the case may be, under and pursuant to the Authority's Program and the period within which such Agricultural Loans are to be sold or made. Any such offer to participate or application shall state the principal amount of the Agricultural Loans to be sold by the Lending Institution to the Authority and the price thereof or the principal amount of Agricultural Loans agreed to be made by the Lending Institution upon the loan to or deposit with the Lending Institution of the specified amount of funds of the Authority, as the case may be, the insurance requirements, if any, of such Program as provided in Rule 3.03 hereof and the amounts of the commitment, origination and/or servicing fees which the Lending Institution may charge its borrower.

2.07 Notification of Acceptance by Authority

The Authority shall notify each Lending Institution which has submitted an offer to participate or application as to the aggregate principal

amount of Agricultural Loans, if any, which the Authority will agree to purchase or for which the Authority will lend to or deposit with the Lending Institution funds of the Authority, as the case may be, subject to the conditions set forth in the offer to participate or application. The aggregate principal amount of Agricultural Loans which the Authority will agree to purchase (or for which the Authority will lend or deposit funds of the Authority) from any Lending Institution shall not exceed the aggregate principal amount of Agricultural Loans offered to be sold or made by the Lending Institution and may be in a principal amount less than that requested. The Authority shall notify each Lending Institution of the interest rate or rates it may charge on the Agricultural Loans, the requirements to be met by such Lending Institution for the sale or making of such Agricultural Loans and the date of the expected availability of the proceeds of the Authority's Bonds for the purposes of the Program.

2.08 Allocation of Funds for Agricultural Loans

The Authority shall in its sole discretion reduce the amount of each offer to participate or application to an amount it deems reasonable in the event that the Authority receives offers to sell or make more Agricultural Loans than is practical. Such reduction shall be on a pro rata basis, provided that the Authority may consider the historic experiences of the Lending Institutions in making Agricultural Loans and other relevant factors. Priorities for allocations of Authority funds under a Program may be established and reviewed by the Authority. Priorities may be based on criteria established by the Authority as best effectuating the purposes of the Act including, without limitation, a determination by the Authority of the geographic, demographic and other factors which may be evaluated by the Authority in the context of other Programs made or to be made available by the Authority.

Part III: Details of Agricultural Loans

3.01 Terms and Conditions of Agricultural Loans

Agricultural Loans to be sold or made by Lending Institutions pursuant to a Program or Programs shall be subject to and comply with such terms and conditions as shall be established by the Authority in the Program Documents. The Program Documents shall contain such terms, conditions and requirements as the Authority deems appropriate including such provisions designed to assure that there at all times shall be sufficient funds to enable the Authority to make the payments on its Bonds plus any administrative and other costs of the Authority with respect to the Bonds, the establishment and implementation of the Program and otherwise in connection with the transactions contemplated thereby.

3.02 Administration and Servicing of Agricultural Loans

Each Lending Institution shall service and administer the Agricultural Loans in accordance with the terms of the Program Documents. In the event the Lending Institution is an institution regulated by a Federal or State regulatory agency, the Authority may require that such Lending Institution will agree to service the Agricultural Loans in the manner and according to the standards required by such regulatory agency and in no event at a lesser standard of service than is maintained on loans of the same character as the Agricultural Loans as are owned by such Lending Institution. Each Lending Institution, in addition, will agree to service the Agricultural Loans in such a manner so as to provide

that any Federal, State or private insurance or guarantee will be maintained.

3.03 Insurance of Agricultural Loans

The Authority may establish a Program under which the Lending Institutions may be required to insure or under which the Authority may determine to insure and/or reinsure Agricultural Loans to be purchased by the Authority or to be made by the Lending Institutions from funds of the Authority loaned to or deposited with the Lending Institutions. All such terms, conditions, limitations, collateral and security provisions and reserve requirements shall be described in the guidelines or summary descriptions for or of the Program prepared by the Authority pursuant to Rule 2.03 hereof and shall be included in the Program Documents.

Bob Odom
Commissioner of Agriculture

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education, at its meeting of November 17, 1983, exercised those powers conferred by the emergency provisions of the Administrative Procedures Act R.S. 49:953B and adopted the following items as Emergency Rules:

1. Bulletin 1705, *Separate Minimum Standards for Moderately, Severely, and Profoundly Handicapped Students*. (Copy on file in BESE office and Office of Louisiana Register)

(This emergency adoption is necessary because in order to provide the local school systems with enough copies to begin implementation with the opening of the 83-84 school year, the Department of Education must begin printing and distributing immediately.)

2. An amendment to the tuition exemption regulations (Bulletin 1533) under *College and University Procedures (VIII-E)* to allow colleges and universities 15 days after the date of commencement to submit tuition exemption invoices and related information to the State Department of Education.

(This emergency adoption is necessary because the Department of Education must print and distribute these Regulations in order to allow teachers to return to colleges and universities in the Fall semester of 1983 under this program as provided by the Louisiana Legislature.)

3. Revised Section 459 of Bulletin 1706 (formerly Act 754 Regulations) as amended in Special Education Committee, November 16, 1983 and as follows:

REVISIONS TO SECTION 459 (11-16-83)

A. In accordance with State law, the policy of a school system's governing authority and of this subpart, teachers, principals, and administrators are authorized to hold each student to a strict accountability for any disorderly conduct in the school, on the playground of the school, on any school bus going to or returning from school, or during recess or intermission.

Prior to administering any form of discipline that may result in the cessation of or interference with the educational program of a student identified as handicapped, teachers, principals, and administrators must give consideration to the influence that the student's handicap may have on the behavior in question. (see "H" for exception)

B. At each IEP meeting there should be a discussion of the

behavioral needs of the student. This may include:

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

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

C. The IEP committee shall be convened to review the program and/or placement of a student classified as handicapped as soon as possible following:

1. nine school days in or repetitive assignments to a structured in-school alternative discipline program;
2. the third occurrence of a suspendable infraction;
3. cessation of educational services for nine cumulative school days due to one or more suspensions; or
4. such inappropriate behavior that would make a review necessary.

NOTE: Generally, the IEP committee should be convened within three school days of any of the above situations.

D. Prior to the suspension or expulsion of a student classified as handicapped a determination must be made (see I. 5) as to whether the behavior is related to the student's handicapping condition. The special education administrator or designee shall be notified within one operational day of the determination decision regarding the student's handicap, the behavior, and whether disciplinary action is taken.

E. If the determination is made (see 1.5) that the behavior is related to the student's handicap, then the student shall neither be suspended nor expelled. (See "H" for exception)

1. The student may remain in his/her current educational setting if this is appropriate, or
2. The student's IEP Committee may be convened to consider modifications to the student's program/placement (e.g., additional related services, counseling, changes in his/her behavior management, increased time in the current special educational program setting, change of class schedule, teacher, etc.).

F. If the determination is made (see 1.5) that the behavior is not related to the student's handicap the student may be suspended in accordance with discipline policies for non-handicapped students.

G. If the determination is made (see 1.5) that the behavior is not related to the student's handicap and expulsion is being considered, prior to the expulsion:

1. the IEP Committee (see Sec. 442) must be convened to
 - a. familiarize the IEP Committee with the determination decision,
 - b. review the student's IEP/Placement, and
 - c. if an expulsion is determined to be the appropriate disciplinary action, to develop an alternative education program that shall be provided to the student during the period of expulsion, and
2. if an expulsion is determined to be the appropriate disciplinary action a re-evaluation must be conducted.

H. When the behavior of a student classified as handicapped is presenting an immediate danger to self or others or is significantly destructive to property, the student may be immediately removed from the school premises provided that a determination as described in 1.5 and other required due process procedures are carried out as soon as possible. Generally, this should not exceed three days from the day of the incident.

I. Explanations:

1. A suspension is defined as:
 - a. an in-school cessation of educational services for one school day or longer; and /or
 - b. a temporary removal from school for not more than nine school days.
2. An expulsion is defined as the removal of a student from school for ten or more consecutive school days.
3. An in-school alternative discipline program which includes educational services shall not be considered a suspension.

4. Re-evaluation

The evaluation coordinator is responsible for judging the adequacy of all data, including that provided by the student's teacher, as a valid indicator of the student's current performance and assuring that any other evaluation procedures deemed necessary or appropriate are conducted.

The re-evaluation should be specific to the referral questions in accordance with Bulletin 1508.

5. Determination

A determination is the assessment of a handicapped student's behavior as it is related to or influenced by his/her handicap. The determination must be made by at least one person knowledgeable about the student (e.g. a teacher) and one other professional staff member of the school system knowledgeable about the handicapping condition of concern (e.g., a certified special education teacher, a pupil appraisal staff member).

This policy was adopted as an Emergency Rule because the Office of Civil Rights has indicated in formal correspondence to the BESE that the current Section 459 of Bulletin 1706 is out of compliance with the requirements of Section 504 of the Vocational Rehabilitation Act of 1973. Section 459 of Bulletin 1706 was adopted on an emergency basis so that immediate compliance with Section 504 can be achieved.

4. The Board accepted the State Department of Education's recommendations regarding the National Teacher Examination Scores as listed below:

NTE SCORES				
AREA EXAM AND CORE BATTERY				
Area Examination	Core Battery Exams			
	Area Score	CS	GK	PK
Agriculture	466	645	644	645
Art Education	—	645	644	645
Biology & General Science	575	645	644	645
Business Education	591	645	644	645

Chemistry/Physics/General Science	530	645	644	645
Early Childhood Education	506	645	644	645
Education in Elementary School	545	645	644	645
Education of Mentally Retarded	541	645	644	645
English Language/Literature	441	645	644	645
French	517	645	644	645
German	496	645	644	645
Home Economics Education	509	645	644	645
Industrial Arts Education	—	645	644	645
Mathematics	617	645	644	645
Media Specialist/Library/A-V	563	645	644	645
Music Education	533	645	644	645
Physical Education	545	645	644	645
Social Studies	563	645	644	645
Spanish	538	645	644	645
Speech Communication	—	645	644	645

CS — Communication Skills GK — General Knowledge PK — Professional Knowledge

Since the National Teacher Examinations were revised by the Educational Testing Service, it was necessary to revalidate the exams and set new scores for certification. Emergency adoption is necessary so that individuals can be employed under these provisions for the 1983-84 school year.

5. The Board adopted the following policy regarding issuing a temporary employment permit to those taking the revised NTE:

1. A temporary employment permit, valid for the 1983-84 school year, will be granted to those candidates who met the qualifying scores on the revised NTE in three out of four modules and whose aggregate score is equal to or above the total score on all four modules required for standard certification. All other standard certification requirement must be met.

2. When no area examination is required, a temporary employment permit will be granted to candidates who meet qualifying scores in two out of three modules of the Core Battery and whose aggregate score is equal to or above score on all three modules of the Core Battery required for certification. All other standard certification requirements must be met.

3. To employ an individual on a temporary employment permit, a local superintendent would be required to verify that no regularly certified teacher is available for employment. Names of individuals employed on a temporary employment permit should be listed on the addendum to the Annual School Report with verification that no regularly certified teacher is available.

(The need for the emergency adoption of the above policy is to help local school systems that are experiencing a teacher shortage and cannot employ a regularly certified teacher.)

6. The Board adopted policies on attendance in the proposed revised Bulletin 741 as an Emergency Rule in order that these policies would be effective for the 1983-84 school year as listed below:

Attendance Requirements - (Elementary and Secondary Education)

Students from the seventh to the sixteenth birthday shall attend a public or private day school or participate in an approved home study program.

1. Schools shall administer attendance regulations in accordance with state and locally adopted policies.

2. Students shall be expected to be in attendance every student activity day scheduled by the local educational governing authority.

3. In order to be eligible to receive grades, high school students shall be in attendance a minimum of 80 days per semester or 160 days a school year for schools not operating on a semester

basis. Elementary students shall be in attendance a minimum of 160 days a school year.

Extenuating Circumstances

4. The only exception to the attendance regulation shall be the delineated extenuating circumstances that are verified by the Supervisor of Child Welfare and Attendance.

Refer to R.S. 17:226.

Extenuating Circumstances

1. Extended personal physical or emotional illness as verified by a physician or dentist.

2. Extended hospital stay as verified by a physician or dentist.

3. Extended recuperation from an accident as verified by a physician or dentist.

4. Extended contagious disease within a family as verified by a physician or dentist.

5. Prior school system approved travel for education

6. Death in the family (not to exceed one week)

7. Natural catastrophe and/or disaster

8. For any other extenuating circumstances parents must make a formal appeal in accordance with the due process procedures established by the LEA.

5. Students who are verified as meeting extenuating circumstances and therefore eligible to receive grades shall not receive those grades if they are unable to complete make-up work or pass the course.

Absences Due to School Approved Activities

6. Students participating in school approved activities which necessitate their being away from school shall be considered to be present and shall be given the opportunity for make-up work.

Types of Absences

7. The days absent for elementary and secondary school students shall include temporarily excused absences, unexcused absences and suspensions.

Temporarily Excused Absences

8. Students shall be considered temporarily excused from school for personal illness, serious illness in the family, death in the family (not to exceed one week), or for recognized religious holidays of the student's own faith and shall be given the opportunity for make-up work.

Unexcused Absences

9. Students shall not be excused for any absence other than those listed and shall be given failing grades in those subjects for those days missed with no make-up work allowed.

10. Students shall not be excused from school to work on any job including agriculture and domestic service, even in their own homes or for their own parents or tutors.

Absences Due To Suspensions

11. Students missing school as a result of any suspension shall be counted as absent and shall be given failing grades for those days suspended with no make-up work allowed.

Homebound Instruction

12. A student enrolled in regular education who, as a result of physical illness, accident, or the treatment thereof, is temporarily unable to attend school shall be provided instructional services in the home or hospital environment through special education, when appropriate.

Procedures outlined in Act 754 and Bulletin 1508, *Pupil Appraisal Handbook*.

Exceptional Students' Attendance

13. School systems shall provide education and related services to exceptional students in accordance with an Individualized Education Program (IEP) for no less than the normal 180-day school cycle.

Entrance Requirements

14. All Students upon entering Louisiana schools for the first time shall present an official birth certificate and a record of immunization.

All students entering any school for the first time shall present satisfactory evidence of having been immunized against diphtheria, tetanus, whooping cough, polio-myelitis, measles, and other communicable diseases according to a schedule approved by the State Department of Health and Human Resources, or shall present evidence of an immunization program in progress. In addition, each child shall have a test for meniscocytosis, commonly known as "sickle-cell anemia." The test is mandatory unless the parents object.

Age Requirements

15. Special Education preschool shall be provided to eligible students ages 3-5 years.

16. The school system shall have the option to provide special education preschool to handicapped students aged 0-2 years.

17. The minimum age for kindergarten shall be 4 years, 8 months.

18. Students attaining the age of 6 within 4 months after the beginning of any public school term or session may enter such school at the beginning of the school term or session.

In any parish or municipality, the local educational governing authority may establish the policy that only children attaining the age of 6 on or before December 31 may enter regular school at the beginning of the term or session.

Child Welfare and Attendance

19. A planned program of child welfare and attendance services shall be provided.

Unexcused Absences

20. Any unexplained, unexcused, or illegal absence or habitual tardiness shall be reported to the Visiting Teacher, and/or Supervisor of Child Welfare and Attendance when necessary.

The Visiting Teacher or Supervisor of Child Welfare and Attendance may visit the residence of a student or any other place in order to ensure that a student is in attendance during the hours of a school day.

In the discharge of the duties of their office, visiting teachers, or supervisors of child welfare and attendance, shall cooperate fully with the State Department of Public Welfare, Labor, Health and Human Resources (DHHR), and other State and local agencies, any may serve such writs and process in law relating to compulsory attendance as may be necessary for the enforcement.

Violations of the compulsory attendance law shall be investigated, and when necessary, shall include written notice, either in person or by registered mail, to the parent, tutor, or other person having control or charge of a student within the compulsory school attendance age.

Parent or Tutor Responsibility

21. The school system shall require that every parent or tutor or other person having charge of an exceptional student enrolled in the school system shall enforce the attendance of these students at the special schools or classes which may be provided for them by the state or by the local educational governing authority, and to which they have been assigned, and which they are eligible to enter.

Attendance Requirements — (Special Schools)

Special schools shall administer attendance regulations in accordance with state and locally adopted policies.

1. Students shall be expected to be in attendance every student activity day scheduled by the local educational governing authority.

2. In order to be eligible to receive grades, high school students shall be in attendance a minimum of 80 days per semester

or 160 days a school year for schools not operating on a semester basis. Elementary students shall be in attendance a minimum of 160 days a school year.

Extenuating Circumstances

The only exception to the above stated standard (3.055.02) shall be the delineated extenuating circumstances that are verified by the Supervisor of Child Welfare and Attendance or other appropriate authority as designated by the educational governing authority.

Special schools not within the jurisdiction of a school system shall provide verification and approval of the extenuating circumstances through the principal of the school and the State Department of Education (SDE).

Refer to R.S. 17:226.

Extenuating Circumstances

1. Extended personal physical or emotional illness as verified by a physician or dentist.
 2. Extended hospital stay as verified by a physician or dentist.
 3. Extended recuperation from an accident as verified by a physician or dentist.
 4. Extended contagious disease within a family as verified by a physician or dentist.
 5. Prior school system approved travel for education.
 6. Death in the family (not to exceed one week)
 7. Natural catastrophe and/or disaster
 8. For any other extenuating circumstances parents must make a formal appeal in accordance with the due process procedure established by the LEA.
4. Students who are verified as meeting extenuating circumstances and therefore eligible to receive grades shall not receive those grades if they are unable to complete make-up work or pass the course.

Absences Due to School Approved Activities

5. Students participating in school approved activities which necessitate their being away from school shall be considered to be present and shall be given the opportunity for make-up work.

Types of Absences

6. The days absent for elementary and secondary school students shall include temporarily excused absences, unexcused absences and suspensions.

Temporarily Excused Absences

7. Students shall be considered temporarily excused from school for personal illness, serious illness in the family, death in the family (not to exceed one week), or for recognized religious holidays of the student's own faith and shall be given the opportunity for make-up work. Exceptions can be made only through specific provisions in the Individualized Educational Program (IEP).

Entrance Requirements

8. All students entering a special school shall present an official birth certificate, a record of a physical examination, and satisfactory evidence of having been immunized against communicable diseases according to an approved schedule or shall present evidence of an immunization program in progress.

All students entering any school for the first time shall present satisfactory evidence of having been immunized against diphtheria, tetanus, whooping cough, polio-myelitis, measles, and other communicable diseases according to a schedule approved by the State Department of Health and Human Resources, or shall present evidence of an immunization program in progress. In addition, each child shall have a test for meniscocytosis, commonly known as "sickle-cell anemia." The test is mandatory unless the parents object.

Age Requirements

9. Eligible students served by special schools shall be between the ages of 3 through 21.

10. The special school shall have the option to provide special education preschool to handicapped students ages 0-2 years.

11. Special schools with graded programs shall adhere to established age requirements.

Unexcused Absence

12. Any unexplained, unexcused, or illegal absence or habitual tardiness shall be immediately reported to the Visiting Teacher, or Supervisor of Child Welfare and Attendance, or other appropriate authority as designated by the local educational governing authority.

The visiting Teacher or Supervisor of Child Welfare and Attendance or other appropriate authority as designated by the local educational governing authority shall visit the residence of a student or any other place in order to ensure that a student is in attendance during the hours of a school day.

In the discharge of the duties of their office, Visiting Teachers, or Supervisors of Child Welfare and Attendance, shall cooperate fully with the State Departments of Public Welfare, Labor, Health and Human Resources, and other State and local agencies, and may serve such writs and process in law relating to compulsory attendance as may be necessary for the enforcement.

Violations of the compulsory attendance law shall be investigated, and when necessary, shall include written notice, either in person or by registered mail, to the parent, tutor, or other person having control or charge of a student within the compulsory school attendance age.

Parent or Tutor Responsibility

13. Each special school shall require that every parent or tutor or other person having charge of an exceptional child enforce the attendance of these children at the special schools or classes which may be provided for them.

7. The Board amended BESE Agenda Item 29 (Sept. 1983) to include authorization for the superintendents of special schools and Special School District #1 to accept employee resignations in the name of BESE.

8. The Board amended BESE Agenda Item 8-G-2 of the Oct. 27, 1983 Minutes, page 20 to include authorization for the superintendents of BESE special schools and Special District #1 to suspend employees without pay for up to 90 days in the name of the Board, pending Board action on a recommendation for termination.

These two policies were adopted as Emergency Rules because the Board previously approved a policy granting this authorization to the vocational technical school. The Board felt there is a need to have the same policy for the special schools and Special School District #1.

James V. Solieau
Executive Director

DECLARATION OF EMERGENCY

Department of Public Safety Office of State Fire Marshal

After consultation with the Mobile Home Board of Review and considering all of the legal alternatives available, the Fire Marshal for the State of Louisiana does hereby adopt as an emergency ruling the following regulation as an amendment to the

current provisions of L.A.C. 17-4:7, standards for mobile homes:

L.A.C. 17-4:7.13 Disclosure of Bankrupt Manufacturer and Assumption of Warranty by Dealers

Because the warranty provided by these regulations depends upon the financial solvency of the manufacturers of manufactured housing and mobile homes, and because there have been significant incidents of bankruptcies which impair the ability of this office and of a consumer to obtain redress for defects manufactured into the mobile home or manufactured housing, it is now hereby required that every licensed dealer disclose to any consumer that any new mobile home or manufactured housing which was manufactured by a manufacturer known by the dealer to have filed bankruptcy, that the dealer shall disclose to the consumer of any such mobile home or manufactured housing that the manufacturer has filed for bankruptcy, that the fact that the manufacturer has filed for bankruptcy may impair the ability of the consumer to enforce the warranty required by both state and federal law against that manufacturer, and that accordingly, the dealer does and shall honor that warranty in place of the manufacturer in the event that the bankruptcy in fact does impair the recognition and maintenance of the warranty otherwise required of the manufacturer by the laws of the State of Louisiana and of the United States of America.

The reason why this Rule is being promulgated on an emergency basis is that a very large manufacturer has recently filed for bankruptcy and there are many mobile homes and manufactured housing currently on dealer lots in the State of Louisiana which might otherwise be sold to unknowing consumers, obviously to their detriment.

As it was noted above, the proposed emergency ruling was brought to the attention of the Louisiana Mobile Home Board of Review on Friday November 18, 1983, and no objection was received by any member of the Board of Review.

Carrol L. Herring
State Fire Marshal

DECLARATION OF EMERGENCY

Department of Wildlife and Fisheries Wildlife and Fisheries Commission

The Wildlife and Fisheries Commission has exercised the emergency provisions of the Administrative Procedure Act, R.S. 49:953B, and adopted the following Emergency Rule:

WHEREAS, the Tensas Parish Police Jury passed a resolution on August 9, 1983 requesting the Louisiana Wildlife and Fisheries Commission to do a study on Lake Bruin concerning the fish population and the feasibility of a special commercial or rough fish harvest on the lake; and

WHEREAS, results from fish population samples and fish species composition in net sets in Lake Bruin show a preponderance of buffalo and carp relative to other species of fishes in the lake,

THEREFORE BE IT RESOLVED, the Louisiana Wildlife and Fisheries Commission, invoking the emergency provisions of the Administrative Procedure Act, does hereby open a special 90 day commercial fishing season on Lake Bruin to commence on December 2, 1983 and to close on March 1, 1984. It is necessary to have this special season during the period of December - February to minimize conflicts between the net fishermen and the recreational users who utilize heavily this 3,000 acre oxbow lake during the spring and summer months.

Commercial fishermen will be required to obtain a special permit from the Louisiana Department of Wildlife and Fisheries to fish with nets in Lake Bruin during this special season and will also submit a monthly catch report to the Department. Net fishing will be permitted during daylight hours only, except that trammel and gill nets can remain set overnight but fish captured may be removed during daylight hours only.

The following types of nets will be allowed:

Fresh water gill nets and trammel nets greater than or having at least a minimum mesh of 4" bar and 8" stretched.

Fresh water fish seines greater than or having at least a minimum mesh of 2" bar or 4" stretched.

Jesse J. Guidry
Secretary

Rules

RULES

Board of Elementary and Secondary Education

Rule 3.01.65

The Board adopted Bulletin 1705, *Separate Minimum Standards for Moderately, Severely, and Profoundly Handicapped Students*.

Rule 5.00.80(1)a

The Board adopted an amendment to the tuition exemption regulations (Bulletin 1533) under College and University Procedures (VIII-E) to allow colleges and universities 15 days after the date of commencement to submit tuition exemption invoices and related information to the State Department of Education.

Rule 4.00.04.c

The Board approved for final adoption, Revised Section 459 of Bulletin 1706 (formerly Act 754 Regulations) as amended in Special Education Committee, November 16, 1983 and as follows:

REVISIONS TO SECTION 459 (11-16-83)

A. In accordance with State law, the policy of a school system's governing authority and of this subpart, teachers, principals, and administrators are authorized to hold each student to a strict accountability for any disorderly conduct in the school, on the playground of the school, on any school bus going to or returning from school, or during recess or intermission.

Prior to administering any form of discipline that may result in the cessation of or interference with the educational program of a student identified as handicapped, teachers, principals, and administrators must give consideration to the influence that the student's handicap may have on the behavior in question. (see "H" for exception)

B. At each IEP meeting there should be a discussion of the behavioral needs of the student. This may include:

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

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

C. The IEP committee shall be convened to review the program and/or placement of a student classified as handicapped as soon as possible following:

1. nine school days in or repetitive assignments to a structured in-school alternative discipline program;
2. the third occurrence of a suspendable infraction;
3. cessation of educational services for nine cumulative school days due to one or more suspensions; or
4. such inappropriate behavior that would make a review necessary.

NOTE: Generally, the IEP committee should be convened within three school days of any of the above situations.

D. Prior to the suspension or expulsion of a student classified as handicapped a determination must be made (see I. 5) as to whether the behavior is related to the student's handicapping condition. The special education administrator or designee shall be notified within one operational day of the determination decision regarding the student's handicap, the behavior, and whether disciplinary action is taken.

E. If the determination is made (see 1.5) that the behavior is related to the student's handicap, then the student shall neither be suspended nor expelled. (See "H" for exception)

1. The student may remain in his/her current educational setting if this is appropriate, or
2. The student's IEP Committee may be convened to consider modifications to the student's program/placement (e.g., additional related services, counseling, changes in his/her behavior management, increased time in the current special educational program setting, change of class schedule, teacher, etc.).

F. If the determination is made (see 1.5) that the behavior is not related to the student's handicap the student may be suspended in accordance with discipline policies for non-handicapped students.

G. If the determination is made (see 1.5) that the behavior is not related to the student's handicap and expulsion is being considered, prior to the expulsion:

1. the IEP Committee (see Sec. 442) must be convened to
 - a. familiarize the IEP Committee with the determination decision,
 - b. review the student's IEP/Placement, and
 - c. if an expulsion is determined to be the appropriate disciplinary action, to develop an alternative education program that shall be provided to the student during the period of expulsion, and
2. if an expulsion is determined to be the appropriate disciplinary action a re-evaluation must be conducted.

H. When the behavior of a student classified as handicapped is presenting an immediate danger to self or others or is significantly destructive to property, the student may be immediately removed from the school premises provided that a determination as described in 1.5 and other required due process procedures are carried out as soon as possible. Generally, this should not exceed three days from the day of the incident.

I. Explanations:

1. A suspension is defined as:
 - a. an in-school cessation of educational services for one school day or longer; and /or
 - b. a temporary removal from school for not more than nine school days.
2. An expulsion is defined as the removal of a student from school for ten or more consecutive school days.
3. An in-school alternative discipline program which includes educational services shall not be considered a suspension.

4. Re-evaluation

The evaluation coordinator is responsible for judging the adequacy of all data, including that provided by the student's teacher, as a valid indicator of the student's current performance and assuring that any other evaluation procedures deemed necessary or appropriate are conducted.

The re-evaluation should be specific to the referral questions in accordance with Bulletin 1508.

5. Determination

A determination is the assessment of a handicapped student's behavior as it is related to or influenced by his/her handicap. The determination must be made by at least one person knowledgeable about the student (e.g. a teacher) and one other professional staff member of the school system knowledgeable about the handicapping condition of concern (e.g., a certified special education teacher, a pupil appraisal staff member).

Rule 3.01.70.v(22)

The Board accepted the State Department of Education's recommendations regarding the National Teacher Examination Scores.

3.01.70.v(22)1

The Board adopted a policy regarding issuing a temporary employment permit to those taking the NTE.

Rule 3.01.51.aa

The Board adopted the *School Attendance Requirement* policy in the proposed revised Bulletin 741, to be effective for the 1983-84 school year with a clarification that dental care is considered a part of health care.

Rule 3.01.64.a

The Board adopted Standards for Social Living and Science Skills as an addendum to the *Separate Minimum Standards for Mildly Handicapped Students*, Bulletin 1640.

Rule 3.01.70.u(10)

The Board adopted an amendment to the last sentence under "f" on page 83 of Bulletin 746 to read:

"An individual may function as an assessment teacher under a plan of professional development approved by the Division of Special Educational Services until September, 1985."

Rule 4.03.46

The Board adopted the recommendations of the Department of Education that any changes in the existing vocational technical schools' physical facilities and/or grounds shall be submitted and approved by the Bureau of Trade and Industrial Education prior to initiating changes.

Rule 5.03.13 (School Calendars)

The Board adopted a revision to Board Policy 5.03.13 (School Calendars).

Rule 3.01.80.a

The Board approved for final adoption, the request of the Department and changed Foreign Languages from the State Textbook Adoption Cycle for 1984-85 to the State Textbook Adoption Cycle for 1983-84, and every six-year cycle thereafter. The Board also changed Handwriting from the State Textbook Adoption Cycle for 1983-84 to the State Textbook Adoption Cycle for 1984-85 and every six-year cycle thereafter.

James V. Soileau
Executive Director

RULE

Southern University Board of Supervisors

The Southern University Board of Supervisors pursuant to Notice of Intent published in the *Louisiana Register* on September 20, 1983, by action at its regular meeting held November 19, 1983 in New Orleans, LA adopted a field practicum fee of \$75 per semester for students enrolling in the Master of Social Work Program at Southern University at New Orleans.

The fee is effective January 1, 1984.

Jesse N. Stone, Jr.
President, Southern University System
Secretary to the Board

RULE

**Department of Health and Human Resources
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, shall adopt a 3.5% increase in the Aid to Families with Dependent Children (AFDC) and General Assistance (GA) Need Standards.

La. R.S. 46:447 of the 1978 Legislature requires that the Office of Family Security establish AFDC and GA Need Standards and that those standards be adjusted each year effective January 1 to reflect the cost of living increase as reported in the Department of Labor's Consumer Price Index.

The current need standards are shown below along with the new AFDC and GA Need Standards based on a 3.5% increase in the cost of living:

Size of Household	Non-Urban			
	Current Need Standard	Increased Need Standard	150% Need Standard (Current)	150% Need Standard (Increased)
1	\$ 186	\$ 192	\$ 279	\$ 288
2	346	358	519	537
3	490	507	735	760
4	611	632	916	948
5	727	752	1,090	1,128
6	834	863	1,251	1,294
7	943	976	1,414	1,463
8	1,048	1,084	1,572	1,627
9	1,147	1,187	1,720	1,780
10	1,250	1,293	1,875	1,940
11	1,359	1,406	2,038	2,109
12	1,471	1,522	2,206	2,283
13	1,590	1,645	2,385	2,468
14	1,706	1,765	2,559	2,648
15	1,824	1,887	2,736	2,831
16	1,940	2,007	2,910	3,011
17	2,058	2,130	3,087	3,195
18	2,175	2,251	3,262	3,376

To determine the need standard amount for households exceeding 18 persons, the need standard amount for the number in excess of 18 shall be added to the need standard amount for 18 persons.

Urban-Orleans, Jefferson, East Baton Rouge and St. Bernard

Size of Household	Current Need Standard	Increased Need Standard	150% Need Standard (Current)	150% Need Standard (Increased)
	1	\$ 202	\$ 209	\$ 303
2	387	400	580	600
3	538	556	807	835
4	661	684	991	1,025
5	781	808	1,171	1,211
6	889	920	1,333	1,379
7	994	1,028	1,491	1,543
8	1,100	1,138	1,650	1,707
9	1,200	1,242	1,800	1,863
10	1,302	1,347	1,953	2,021
11	1,412	1,461	2,118	2,192
12	1,525	1,578	2,287	2,367
13	1,634	1,691	2,451	2,536
14	1,749	1,810	2,623	2,714
15	1,868	1,933	2,802	2,900
16	1,994	2,063	2,991	3,095
17	2,091	2,164	3,136	3,245
18	2,223	2,300	3,334	3,450

To determine need standard amount for households exceeding 18 persons, the need standard amount for the number in excess of 18 shall be added to the need standard for 18 persons.

GA NEED STANDARD

Size of Household	Current	Increased
1	\$307	\$317
2	\$387	\$400

Roger P. Guissinger
Secretary

RULE

**Department of Health and Human Resources
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, hereby deletes a drug in specified dosage forms from the Louisiana Maximum Allowable Cost (LMAC) list.

The original Rule establishing the drug as part of the LMAC list was published in the August 20, 1983, issue of the *Louisiana Register*, Vol. 9, No. 8, page 552. An Emergency Rule deleting the drug from the LMAC list was published in the September 20, 1983, issue of the *Louisiana Register*, Vol. 9, No. 9, page 607.

RULE

Effective September 1, 1983, the following drug in four dosage forms has been deleted from the Louisiana Maximum Allowable Cost (LMAC) list:

Nitroglycerin	2.500 MG	Extended Release Capsule
Nitroglycerin	6.000 MG	Extended Release Capsule
Nitroglycerin	6.500 MG	Extended Release Capsule
Nitroglycerin	9.000 MG	Extended Release Capsule

This drug in the extended release dosage forms will continue to be paid by the program; however, the Louisiana Maximum Allowable Cost (LMAC) will not apply.

Roger P. Guissinger
Secretary

RULE

**Department of Health and Human Resources
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, hereby adopts the following rule in the Medical Assistance Program.

RULE

Effective January 1, 1984, and thereafter the Medical Assistance Program shall limit the items provided to eligible recipients with the diagnosis of Cerebral Palsy or Cystic Fibrosis to those items of durable Medical equipment approved by the Federal Court order Dickson vs. Fischer and approved by the Department of Health and Human Services, Dallas Regional Office in a letter to the Office of General Counsel, dated August 7, 1981. Subsequent to the court order, in a final Rule published in the *Louisiana Register*, Volume 8, Number 11, pg. 598, on November 20, 1982, hyperalimentation therapy (parenteral) equipment and supplies was added to the Medical Assistance Program.

This action is to clarify the description of items available under the durable medical equipment section 19-530 of the Medical Assistance Program manual to insure that all covered items of durable medical equipment supplied are available to all eligible recipients and not only to persons with a specific diagnosis or condition.

No items of durable medical equipment and supplies presently considered for approval by the Medical Assistance Program will be eliminated by this change.

Roger P. Guissinger
Secretary

RULE

**Department of Health and Human Resources
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, hereby adopts the following rule in the Medical Assistance Program. This change is based on a reinterpretation of Supplemental Security Income (SSI) policy concerning the need for medical documentation to substantiate a client's ability to return home after six months in a long term care facility in order to determine exclusion of the home property as a resource. This information was received in a memorandum from the Acting Associate Commissioner for SSI to the Regional Commissioner, Dallas, dated August 1, 1983.

RULE

Effective January 1, 1984, the need for medical documentation of the likelihood to return home by individuals residing in long term care facilities shall be eliminated.

The statement of intent to return home, made by the individual, shall be considered sufficient to exclude home property as a resource, regardless of the level of incapacity of the individual. The intent to return home shall be reviewed at redetermination.

This policy shall apply to all residents of long term care facilities who own a home, intend to return to said home and the home is not excluded for another reason.

Roger P. Guissinger
Secretary

RULE

**Department of Health and Human Resources
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, shall adopt the following amendment to a Rule published in Volume 8, Number 1, Page 89 of the January 20, 1982, *Louisiana Register* regarding Retrospective Budgeting and Monthly Reporting in the Aid to Families with Dependent Children and Refugee Resettlement Programs. This Rule is submitted to formally adopt an Emergency Rule published in the September 20, 1983, *Louisiana Register* and is authorized by 45 CFR 233.37(c) as published in the *Federal Register* of Friday, February 5, 1982, Volume 47, Number 25, pages 5679 and 5680.

RULE

Beginning October 1, 1983, timely reporting for AFDC and Refugee recipients shall be defined as follows:

AFDC and Refugee recipients will meet the timely requirement if:

(1) Changes in circumstances are reported within 10 days of the knowledge of the change.

AND

(2) Earned income is reported and verified monthly on a monthly report received by the monthly timely due date.

If an AFDC or Refugee recipient fails without good cause to report earned income in accordance with the above, the earned income disregards shall not be applied to the earning not timely reported.

GOOD CAUSE

Good Cause (reason) for failure to timely report in accordance with the above shall exist when circumstances beyond the recipient's control, which could not have reasonably been anticipated, prevent the client from timely reporting.

OFS policy shall be amended accordingly.

Roger P. Guissinger
Secretary

RULE

**Department of Health and Human Resources
Office of Family Security**

The Department of Health and Human Resources, Office of Family Security, hereby increases the allowable monthly income for Long Term Care and Home and Community Based service applicant/recipients as follows:

RULE

Effective January 1, 1984, the maximum allowable monthly income limit (CAP) Rate for Long Term Care and Home and Community Based service eligibility for an individual will be increased from \$912.90 to \$942. For a couple occupying the same room in a long term care facility, the double rate of \$1884 would apply.

This increase allows the Medical Assistance Program to remain in compliance with federal regulation 42 CFR 435.1005, which sets the maximum income limit, before deductions, at 300 percent of the Supplemental Security Income (SSI) payment.

Effective January 1, 1984, the monthly SSI payment will be increased by \$9.70 to \$314. in accordance with a letter addressed to the Secretary of the Department of Health and Human

Resources from the Regional Commissioner of the Department of Health and Human Services, Social Security Administration, dated August 1, 1983.

Roger P. Guissinger
Secretary

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, hereby adopts the following rule:

RULE

Effective January 1, 1984, the monthly maintenance allowance for an individual receiving Home and Community Based Services will be increased from \$304.30 to \$314.

Federal regulation, 42 CFR 435.726, contains provisions for determining the amount of the monthly maintenance allowance.

Effective January 1, 1984, the monthly maintenance increases by \$9.70 to \$314. in accordance with a letter addressed to the Secretary of th Department of Health and Human Resources from the Regional Commissioner of the Department of Health and Human Services, Social Security Administration, dated August 1, 1983.

Roger P. Guissinger
Secretary

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, shall adopt the following amendment to a Rule published in Volume 8, Number 1, page 89 of the January 20, 1982, *Louisiana Register* regarding Retrospective Budgeting and Monthly Reporting in the Aid to Families with Dependent Children and Refugee Resettlement Programs. This Rule is submitted to formally adopt an Emergency Rule published in the September 20, 1983, *Louisiana Register*.

RULE

Beginning September 27, 1983, recipients whose cases were closed for failure to submit a complete monthly report by the final due date but who submit a complete monthly report by the tenth day of the next month, or the next working day if the tenth day of the month is a holiday or weekend shall have their eligibility for benefits determined on the basis of the information supplied in that report without being required to reapply.

Office of Family Security policy shall be amended accordingly.

Roger P. Guissinger
Secretary

RULE

Department of Health and Human Resources Office of Family Security

The Department of Health and Human Resources, Office of Family Security, shall adopt the amendment to the Emergency Rule promulgated on September 2, 1983, and published in the *Louisiana Register* Volume 9, Number 9, dated September 20, 1983, regarding Retrospective Budgeting and Monthly Reporting in the Food Stamp Program as mandated by Federal Regulation 7 CFR 272 et. seq., as published in the *Federal Register* of Tuesday, May 25, 1982, Volume 47, No. 101, pages 22684-22701, regarding Monthly Reporting and Restrospective Budgeting.

RULE

Beginning September 27, 1983, recipients whose cases were closed for failure to submit a complete monthly report by the final due date but who submit a complete monthly report by the tenth of the next month, or the next working day, if the tenth day of the month is a holiday or weekend, shall have their eligibility for benefits determined on the basis of the information supplied in that report without being required to reapply.

The Office of Family Security policy shall be amended accordingly.

Roger P. Guissinger
Secretary

RULES

Office of the Governor Federal Property Assistance Agency

Part-I - Legal Authority

A. 1. Executive Order.

Executive Order EWE-77-11, dated August 1, 1977, authorizes the name of the State Agency to be the Louisiana Federal Property Assistance Agency in the Executive Branch of the Office of the Governor, Division of Administration. This executive order authorizes the Director of the State Agency to have all the powers, duties, and responsibilities enumerated in the Plan of Operation as approved by the General Services Administrator.

2. Attorney General's Ruling.

The Attorney General's Opinion No. 77-1003 dated August 5, 1977 establishes the legality under the State law of the State of Louisiana that the Executive Order EWE-77-11 has the effect of law.

3. Appropriations Bill.

The Ancillary Enterprise Act 293 dated July 10, 1977, establishes the legal authority for the Revolving Fund of the State Agency to be used as the means of financing for the State Agency's operations.

Part II - Designation of State Agency

A. 1. The Louisiana Federal Property Assistance Agency in the Executive Branch of the Office of the Governor, Division of Administration, is designated as the agency responsible for administering the Federal surplus property program in the State of Louisiana.

2. Organization of the Agency.

The State Agency has agency status in the Executive Branch of the Office of the Governor, Division of Administration, under the supervision of the Director of the State Agency as chief executive officer reporting to the Commissioner of Administration.