

Rules

RULE

Department of Civil Service Board of Ethics

Drug Testing of Elected Officials (LAC 52:I.101 and Chapter 17)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Board of Ethics has promulgated rules for the random drug testing of elected officials as required by Section 1116.1 of the *Code of Governmental Ethics* (R.S. 42:1116.1).

No preamble to the rules has been prepared.

Title 52 ETHICS

Part I. Board of Ethics

Chapter 1. Definitions

§101. Definitions

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Collection Agency—a person selected by the board, which has collection sites throughout the state of Louisiana.

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Designated Representative—a board-appointed member of the staff of the Ethics Administration Program, whose primary responsibility includes overseeing the implementation of the program to enforce the random drug testing of elected officials.

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Person Authorized by an Elected Official—a person or persons selected by the elected official who may receive notice of selection for testing. If the elected official chooses to select such a person to receive notice, the name and address of such person shall be provided by the elected official to the designated representative.

* * *

Random Number—the number assigned to the elected official, which ensures the confidentiality of the testing process.

Random Number Selector—a person selected by the board, responsible for the selection of those elected officials subject to the random drug testing.

Random Process—a generally accepted method to ensure that the elected officials are chosen by their random numbers in an unsystematic manner.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1134(A).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1288 (October 1997), amended LR 24:1893 (October 1998).

Chapter 17. Random Drug Testing for Elected Officials

§1701. General

The board, pursuant to R.S. 42:1116.1, shall develop and administer a program to conduct random drug testing on elected officials by means of a urine specimen collected, stored and transported in a manner effective in detecting and deterring illegal drug use. The board shall adhere to the statutory definitions and guidelines in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950 to implement the provisions of the random drug testing for elected officials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1893 (October 1998).

§1703. Designated Representative; Duties and Responsibilities

A. The designated representative acts as the liaison between the board and the collection agency and the certified laboratories, and such duties shall be carried out as directed in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950.

B. The designated representative shall provide the collection agency with a list of the names of the elected officials selected by the random number selector and the corresponding officials' random numbers.

C. The designated representative shall send a notice by commercial delivery to the elected official requiring the elected official or a person authorized by the elected official personally sign the proof of receipt of the notice in order to notify the elected official that he has been randomly selected to submit to a drug test.

D. The designated representative shall obtain from the commercial delivery service a copy of the receipt containing the elected official's or authorized person's signature evidencing proof of delivery of the notice to the elected official. If the elected official or person authorized refuses or is unavailable personally to receive the notice, the commercial delivery service shall report the refusal or unavailability to the designated representative.

E. The designated representative shall ensure the confidentiality of all procedures associated with the testing of the elected official, including the selection, delivery of notice, subpoena, and testing results, unless otherwise expressly provided by law or by these rules.

F. Upon receipt of the results from the medical review officer, the designated representative shall provide the elected official with a certified copy of the results of the drug test.

G. Upon receipt of the medical review officer's analysis and confirmation of a positive result of the test, the designated

representative shall submit the result of the test to the board for action pursuant to R.S. 42:1141(B)(3).

H. Upon request by the medical review officer, the designated representative shall obtain the medical records of the elected official whose test results are positive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1893 (October 1998).

§1705. Random Selection of Elected Officials

Each elected official shall be assigned a number by the designated representative. This number is utilized in the random selection process to ensure that the selection process and test results are kept confidential.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1707. Selection Process; Random Number Selector

A. The designated representative shall supply the random number selector with the random numbers that have been assigned to the elected officials. The random number selector shall select by a random process a percentage of the random numbers, as determined by the board.

B. The random number selector shall not, at any time, have access to the corresponding names of the elected officials.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1709. Selection Process; Percentage

The board, at its meeting immediately subsequent to the promulgation of these rules and at its April meeting every calendar year thereafter, or the next subsequent meeting if no meeting is held in April, shall determine the percentage of elected officials to be chosen by a random process for drug testing in the subsequent fiscal year. The board may apply the following guidelines:

1. 10 percent of all elected officials the first year; and
2. 5 percent increase every year thereafter, with a maximum of 50 percent of all elected officials to be selected to submit to a drug test.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1710. Notice

A. Notice to the elected official shall be delivered to the elected official or person authorized by the elected official by a commercial delivery service requiring the elected official or person authorized by the elected official to sign for the notice and ordering the elected official to report to a designated collection site within 32 hours from receipt of the notice. A copy of the signature provided by the commercial delivery service shall evidence proof of delivery to the elected official. If the elected official or person authorized by the elected official refuses or is unavailable to sign the necessary form, the commercial delivery service shall notify the designated representative of the refusal or the unavailability.

B. If the elected official or person authorized does not receive the notice, the designated representative shall issue a subpoena at the date and time to be selected solely by the designated representative ordering the elected official to report to a designated collection site within 32 hours of the service of the subpoena. Such subpoena shall be personally served on the elected official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1711. Collection Agency; Duties and Responsibilities

A. The board shall select a collection agency that utilizes the National Institute on Drug Abuse (NIDA) guidelines proscribed in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950.

B. The random numbers and the corresponding names are submitted to the collection agency.

C. The collection agency shall maintain a record as to the date and time when the elected official reported to the collection site.

D. The collection agency shall provide the designated representative with the names of the elected officials who failed to report to the collection site within the time required.

E. The collection agency shall insure the transportation of the collected sample to a NIDA-certified or College of American Pathologists-Forensic Urine Drug Testing (CAP-FUDT)-certified laboratory to be analyzed according to Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950.

F. The collection agency shall provide a certified copy to the designated representative evidencing the chain of custody of each sample from collection of the sample to its receipt by the certified laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1713. Collection Agency; Confidentiality

The collection agency and its employees have a duty to conduct such collecting, storing and transporting of the sample in a confidential manner, respecting the privacy rights of the elected official. The contract between the board and the collection agency shall prescribe penalties if the collection agency breaches the required confidentiality.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1715. NIDA-Certified and CAP-FUDT-Certified Laboratories

A. The board shall maintain a list of laboratories that are certified by either NIDA or CAP-FUDT as provided by the Department of Health and Hospitals and to which the sample is submitted for testing in accordance with the guidelines in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950.

B. Should the initial test of the sample of the elected official produce a negative result, the laboratory shall submit that result to the medical review officer who shall forward it to

the designated representative for further processing and dissemination to the elected official.

C. Should the initial test of the sample of the elected official produce a positive result, the laboratory shall conduct a confirmatory test on the remainder of the split sample. The result elicited from the confirmatory test is submitted to the medical review officer for review.

D. The certified laboratory shall provide a certified copy to the designated representative evidencing the chain of custody of each sample from receipt of the sample by the certified laboratory to its analyzation by the laboratory.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1894 (October 1998).

§1717. Second Separate Test

A. If the board determines, pursuant to LAC 52:I.1727, that the elected official violated La. R.S. 42:1116.1, the board shall issue a subpoena for the appearance of the elected official at a collection site not less than one month and not more than six months after such determination.

B. The provisions of LAC 52:I.Chapter 17 and NIDA guidelines as set forth in Chapter 14 of Title 49 of the Louisiana Revised Statutes of 1950 shall be utilized in collecting, storing, transporting and analyzing the second separate sample.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1895 (October 1998).

§1719. Elected Officials; Duties and Rights

A. Upon receipt of notification, the elected official has a duty to report to the designated collection site within 32 hours to submit a sample for testing.

B. The elected official has a right to receive from the designated representative a copy of the results of the test and the confirmation by the medical review officer, if necessary.

C. The elected official must, at the request of the designated representative, authorize the release of his medical records to the designated representative for review by the medical review officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1895 (October 1998).

§1721. Good Cause for Failure to Report to Collection Site

A. Definition. For purposes of §1721, the following definitions shall apply:

Good Cause—any reason, in the considered judgment of the board or the designated representative, beyond the control of the elected official that directly prevents the elected official from reporting to the collection site within 32 hours of receipt of the notice or subpoena.

B. If an elected official cannot report for good cause, the elected official shall promptly file a written petition with the designated representative outlining the reasons establishing good cause for his unavailability. If the designated representative finds good cause, a subsequent subpoena shall be issued at a date and time to be determined solely by the

designated representative directing the elected official to report to a collection site to submit a sample.

C. If the designated representative does not find good cause, an elected official may request that the board conduct a private hearing to determine if the elected official had good cause which prevented him from reporting to the collection site within 32 hours from receipt of the notice or subpoena.

D. If the board determines that the elected official had good cause which prevented him from reporting to the collection site within 32 hours from receipt of the notice or subpoena, the board shall require that the designated representative issue a subsequent subpoena at a date and time to be determined solely by the designated representative directing the elected official to report to a collection site to submit a sample.

E. Should the board determine that the elected official did not have good cause to prevent him from reporting to the collection site within 32 hours from receipt of the notice by either commercial delivery or subpoena, such failure to report to the collection site shall constitute a refusal to submit to a drug test as provided in R.S. 42:12116.1.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1895 (October 1998).

§1723. Medical Review Officer; Duties and Responsibilities

A. The board shall appoint a medical review officer, who is responsible for reviewing the positive results attained by the certified laboratory, using generally accepted medical practices in reviewing the test results.

B. The medical review officer is supplied with only the random number to identify the sample results that he reviews.

C. The medical review officer provides a report to the designated representative containing his analysis and findings.

D. The medical review officer shall forward negative results to the designated representative for further processing and dissemination to the elected official.

E. The medical review officer may require the designated representative to obtain the medical records of the elected official who tested positive if the medical records could supply any possible medical reasons to explain the positive results.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1895 (October 1998).

§1725. Test Result Records

A. Should the initial or confirmatory test elicit a negative result, or if the board determines that the elected official did not violate La. R.S. 42:1116.1, then the designated representative shall destroy the test results 3 years after the elected official is notified of the negative result from the laboratory or 3 years after the board's determination that La. R.S. 42:1116.1 was not violated.

B. Should the initial and confirmatory tests elicit positive results, the Board shall retain all such test results as evidence in the event the elected official should subsequently at any time test positive for illegal drugs on a second occasion.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1895 (October 1998).

§1727. Violations

A. Should the initial and confirmatory tests elicit positive results, as well as confirmation of the positive test results by the medical review officer, the board may, and upon the request of the elected official shall, conduct a private hearing to determine if the elected official violated La. R.S. 42:1116.1.

B. Should the initial and confirmatory tests of the second separate test ordered by the board elicit positive results, as well as confirmation of the positive test results by the medical review officer, the board may, and upon the request of the elected official shall, conduct a public hearing to determine if the elected official violated La. R.S. 42:1116.1 and to impose penalties.

C. If the elected official does not report to the collection site within 32 hours of receipt of the notice or service of a subpoena, or willfully evades service of a subpoena, the board may, and upon the request of the elected official shall, conduct a public hearing to determine if the elected official violated La. R.S. 42:1141B by refusing to submit to a drug test required pursuant to La. R.S. 42:1116.1 and if so what penalties to impose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:1116.1 and R.S. 42:1141(B)(3).

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1896 (October 1998).

R. Gray Sexton
Ethics Administrator

9810#076

RULE

**Department of Economic Development
Racing Commission**

Coupled Entries; Fields
(LAC 35:XIII.11113)

The Louisiana State Racing Commission hereby adopts the following rule in accordance with the provisions of the authority granted under R.S. 4:141 et seq.

Title 35

HORSE RACING

Part XIII. Wagering

Chapter 111. Trifecta

§11113. Coupled Entries; Fields

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:149, R.S. 4:149.1, and R.S. 4:149.2.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 11:616 (June 1985), repealed by the Department of Economic Development, Racing Commission, LR 24:1896 (October 1998).

Paul D. Burgess
Executive Director

9810#020

RULE

Board of Elementary and Secondary Education

Bulletin 741—Science Graduation Requirements
(LAC 28:I.901)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education adopted a revision to Bulletin 741—Louisiana Handbook for School Administrators. Bulletin 741 is referenced in the Louisiana Administrative Code 28:I.901.A. The requirement will become effective for incoming freshmen 1999-2000 and will require students to have at least one Carnegie Unit of credit in the Physical Science domain. The policy change does not change the number of required units. The number of required units will remain at three. The amendment to the High School Program of Studies will include:

1. the required Biology will now be Biology I;
2. the course title General Science will be replaced with Integrated Science; and
3. the course title Vocational Agriculture will be replaced with Agriscience.

The policy change will align the science graduation requirements with the new state science standards and state assessment. Changes to Bulletin 741 under Minimum Requirements for High School Graduation are as follows:

Title 28

EDUCATION

Part I. Board of Elementary and Secondary Education

Chapter 9. Bulletins, Regulations, and State Plans

Subchapter A. Bulletins and Regulations

§901. School Approval Standards and Regulations

A. Bulletin 741

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3761-3764.

HISTORICAL NOTE: Amended by the Board of Elementary and Secondary Education LR 24:

Bulletin 741: School Approval Standards and Regulations

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High School Program of Studies

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Science 3 units

(Effective for Incoming Freshmen 1999-2000 and thereafter)

Shall be:

- 1 unit of Biology I;
- 1 unit of Physical Science (Physical Science or Integrated Science (not both); Chemistry I, Physics I, or Physics for Technology I)¹

1 unit from Aerospace Science, Biology II, Chemistry II, Earth Science, Environmental Science, Physics II, Physics for Technology II, Agriscience I², Agriscience II², or any other course not already taken from the Physical Sciences cluster.³

¹If a student takes Physical Science or Integrated Science, s/he may then take Chemistry I, Physics I, or Physics of Technology I as an elective. If a student takes Chemistry I, Physics I, or Physics for Technology I to fulfill the Physical Science requirement, s/he may not then take Physical Science or Integrated Science as an elective.

²Both Agriscience I and II must be completed for one unit of science credit.

³Additional local electives that have been approved for science credit by the

SDE may be offered. All advanced placement science courses will be accepted for credit.

Science

2.105.20 Three units of science shall be required for graduation. They shall be:

- 1 unit of Biology I;
- 1 unit of Physical Science or Integrated Science (but not both), Chemistry I, Physics I, or Physics for Technology I; and
- 1 unit of Aerospace Science, Biology II, Chemistry I (may be taken after Physical Science or Integrated Science), Chemistry II, Earth Science, Environmental Science, Physics I (may be taken after Physical Science or Integrated Science), Physics II, Physics for Technology I, Physics for Technology II, or both Agriscience I and II to meet one required unit of science.

Course Title	Unit(s)
Aerospace Science	1.0
Agriscience I and II	1.0 (both courses are required for one unit)
Biology I, II	1.0 each
Chemistry I, II	1.0 each
Earth Science	1.0
Environmental Science	1.0
Integrated Science	1.0
Physical Science	1.0
Physics I, II	1.0 each
Physics for Technology I, II	1.0 each

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Weegie Peabody
Executive Director

9810#061

RULE

**Student Financial Assistance Commission
Office of Student Financial Assistance**

**Tuition Opportunity Program for Students
(TOPS)(LAC 28:IV.Chapters 1-21)**

The Louisiana Student Financial Assistance Commission (LASFAC) hereby adopts rules to implement Act 165 of the 1998 First Extraordinary Legislative Session as it affects the Tuition Opportunity Program for Students (R.S. 17:3048.1) and the Tuition Opportunity Program for Teachers (R.S. 17:3042.1).

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher
Education Scholarship and Grant Programs**

Chapter 1. Scope

§101. Introduction

A. Statutory Authority. The Louisiana Student Financial Assistance Commission (LASFAC) was created by Chapter 20, Higher Education Assistance, Louisiana Revised Statutes of 1950, comprised of R.S. 17:3021-3036, for the purpose of supervising, controlling, directing and administering state and federal programs to provide loans to assist persons in meeting the expenses of higher education, and state and federal scholarship and grant programs for higher education. The Louisiana Office of Student Financial Assistance (LOSFA), under authority of the commission, administers state and federal postsecondary student scholarship, grant and loan programs.

B. Agency's Mission Statement. The mission of LOSFA is to provide resources to Louisiana residents for the pursuit of postsecondary education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1897 (October 1998).

§103. Purpose

A. LAC 28:IV provides the rules and regulations governing participation in the scholarship and grant programs administered by LASFAC including, but not limited to:

1. applicants and recipients;
 2. high school counselors;
 3. principals and headmasters;
 4. superintendents;
 5. college and university financial aid directors and staff;
- and
6. federal and state authorities.

B. LAC 28:IV was developed to meet the following objectives:

1. establish scholarship and grant policies and procedures that implement and explain or interpret statutes;
2. define the program responsibilities of participants (applicants, recipients, and high school, school board and postsecondary institution officials);
3. ensure that scholarships and grants are awarded in accordance with statute and legislative intent;
4. establish procedures to monitor the performance of scholarship and grant recipients;
5. ensure compliance with statutory and regulatory provisions governing the administered programs.

C. Since these rules and regulations can neither anticipate nor address every situation that might be encountered in the administration of the scholarship and grant programs included herein, participants in doubt about the applicability or interpretation of a rule or regulation in LAC 28:IV are advised to contact LOSFA for guidance.

D. LAC 28:IV shall be amended and updated as necessary. Such updates will be forwarded to institutions in the form of Scholarship and Grant Program Memoranda (SGPM). SGPM will cover additions, deletions, revisions and clarifications to the rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance LR 24:632 (April 1998), amended LR 24:1897 (October 1998).

§105. Effective Date

These rules and regulations are effective for awards beginning with the 1998-99 academic year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998).

§107. Authority to Audit

By participating in the scholarship and grant programs administered by LASFAC and described in LAC 28:IV, all participants, including high schools and postsecondary institutions, grant LASFAC and the Louisiana legislative auditor the right to inspect records and perform on-site audits of each institution's administration of the programs for the purpose of determining the institution's compliance with state law and LASFAC's rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998).

§109. Discrimination Prohibition

The exclusion of a person from equal opportunity for a Louisiana scholarship and/or grant program administered by LASFAC because of race, religion, sex, handicap, national origin or ancestry is prohibited. No policy or procedure of this agency shall be interpreted as superseding or contradicting this prohibition.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998).

§111. Criminal Penalties

All certifications of student performance which are submitted to LASFAC for the purpose of determining a student's eligibility for an award under a student aid program administered by LASFAC shall be by sworn affidavit of the certifying official and such official shall be subject to criminal law applicable to false swearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998).

Chapter 3. Definitions

§301. Definitions

Where the masculine is used, in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

Academic Year (College)—the two- and four-year college

and university academic year begins with the fall term of the award year, includes the winter term, if applicable, and culminates with the completion of the spring term of the award year. The two- and four-year college and university academic year does not include summer sessions or intersessions. The Louisiana Technical College academic year begins with the fall quarter, includes the winter and spring quarters and culminates with the summer quarter.

Academic Year (High School)—the annual academic year for high school begins with the fall session, includes the winter and spring terms and ends at the conclusion of the summer term, in that order. For purposes of determining the top 5 percent of the 1997-98 graduating class only, the annual academic year for high school begins with the summer session, includes the fall terms and ends at the conclusion of the spring term, in that order. This definition is not to be confused with the Louisiana Department of Education's definition of *school year*, which is found in Louisiana Department of Education Bulletin 741.

ACT Score—the highest composite score achieved by the student on the official American College Test prior to the date of high school graduation or an equivalent score, as determined by the comparison tables used by LOSFA, on the Scholastic Aptitude Test (SAT) taken prior to the date of high school graduation. ACT test scores which are unofficial, including so-called "residual" test scores, are not acceptable for purposes of determining program eligibility.

BESE—Board of Elementary and Secondary Education, elected and appointed body with statutory oversight of Louisiana special, elementary and secondary schools.

Cost of Attendance—the total amount it will cost a student to go to school, usually expressed as an academic year figure. This cost is determined by the school in compliance with Title IV of the Higher Education Act of 1965, as amended, and is annually updated and adopted by the institution. The cost of education covers tuition and fees, on-campus room and board (or a housing and food allowance for off-campus students) and allowances for books, supplies, transportation, child care, costs related to a disability, and miscellaneous expenses. Also included are reasonable costs for eligible programs of study abroad. An allowance (determined by the school) is included for reasonable costs connected with a student's employment as part of a cooperative education program.

Cumulative High School Grade Point Average—the final cumulative high school grade point average calculated on a 4.00 scale for all courses attempted. For those high schools that utilize other than a 4.00 scale, all grade values must be converted to a 4.00 scale utilizing the following formula:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} \cdot \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

$$\frac{3.00}{5.00} \cdot \frac{X}{4.00}$$

By cross multiplying,

$$5X \cdot 12; X \cdot 2.40$$

Quality points = Credit for course multiplied by the value assigned to the letter grade.

Dependent Student—a student who is dependent on his or her parents or legal guardian for support and therefore is required to include parental information on the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA.

Disabled Student—a student who has one or more learning, visual, hearing, or physical disabilities diagnosed by a person licensed or certified to diagnose such disability, when the diagnosis states the need for the student to be provided special accommodations relative to the curriculum requirement.

Eligible Noncitizen—an individual who can provide documentation from the Immigration and Naturalization Service (INS) that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident. Including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the U.S. must provide documentation from the INS to verify permanent residency.

Eligible Non-Louisiana High School and Eligible Out of State High School—See §1701.A.4.

Exceptional Child—a student defined as an exceptional child in accordance with R.S.17:1943(2), excluding gifted and talented.

Expected Family Contribution (EFC)—an amount, determined by a formula established by Congress, that indicates how much of a family's financial resources should be available to help pay for the student's cost of attendance. Factors such as taxable and nontaxable income, assets (such as savings and checking accounts), and benefits (for example, unemployment or Social Security) are all considered in this calculation.

Fee Schedule—a listing of the actual tuition and mandatory fees for attendance at a postsecondary school as defined by the institution.

First-Time Freshman—a student who enrolls for the first time as a full-time freshman in a postsecondary school subsequent to high school graduation, and continues to be enrolled full time on the fourteenth class day (ninth class day for Louisiana Tech). A student who begins postsecondary or university attendance in a summer session will be considered a first-time enrollee for the immediately succeeding fall term. As a one time exception and for the purposes of the TOPS Program, students who graduated from high school in Academic Year 1996-97 are considered first time freshman for the 1998 fall term, if they are in academic good standing.

Full-Time Student—

a. a student enrolled in an institution of higher education who is carrying a full-time academic workload as determined by the school under the standards applicable to all students enrolled;

b. for continuation purposes, a student is considered to have met the full-time requirement if by the completion of the spring term he has earned at least 24 hours of total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status;

c. for programs which permit graduate study, a graduate student must have earned at least 18 hours of total credit during the fall, winter and spring terms;

d. a workload of at least 30 clock hours per week is the full-time equivalent at a technical college.

High School Graduate—for the purposes of these rules, is defined as a student certified by award of a high school diploma to have satisfactorily completed the required units at a Louisiana public or BESE-approved nonpublic high school or certified by award of a high school diploma from an Eligible Non-Louisiana High School or certified by award of a high school diploma from an eligible out-of-state public or non-public high school approved by the appropriate state agency in said state or a student who has completed at least the final two years of a BESE-approved home study program and has reported such to BESE.

Independent Student—a student who meets at least one of the criteria listed in Subparagraphs a. - f. or has been determined independent by a financial aid officer exercising professional judgment in accordance with applicable provisions of the Higher Education Act of 1965, as amended:

a. reached 24 years of age prior to January of the year preceding the academic year for which the student is applying for aid;

b. is a veteran of the U.S. Armed Forces, including a student who was activated to serve in Operation Desert Storm;

c. is an orphan or a ward of the court or was a ward of the court until age 18;

d. has legal dependents other than a spouse;

e. is a graduate or professional student;

f. is married.

Louisiana Resident—

a. any person or independent student who has resided in the state for a period of two years or more, or for some other period of residency which is required to qualify the person for a specific program administered by the LASFAC, and has manifested an intent to permanently reside in the state by establishing Louisiana as their legal domicile and by complying with all of the following that are applicable to that person:

i. if registered to vote, is registered to vote in Louisiana; and

ii. if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license; and

iii. if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle; and

iv. if earning an income, has complied with Louisiana state income tax laws and regulations.

b. any dependent student who has at least one parent or a legal guardian who qualifies as a resident in accordance with a, above.

c. any member of the Armed Forces on active duty whose official military personnel or pay records show that the member claims Louisiana as his home of record and who has filed a Louisiana tax return for the most recent two years in compliance with a.iv, above.

Merit Ranking Formula—a mathematical equation incorporating selected merit factors which is used to rank

eligible applicants in the priority by which competitive scholarships are to be awarded. As of July 1, 1997, the TOPS Teacher Award and Rockefeller State Wildlife Scholarship are the only programs in which applicants are competitively ranked. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students.

a. Formula I—applies to applicants for the Rockefeller State Wildlife Scholarship with less than 24 hours of graded college credit and to applicants for the TOPS—Teacher Award with less than 48 hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{HSGPA}}{4.00} \times 60 \right) \% \left(\left(\frac{\text{ACT}}{36} \right) \times 40 \right) \right)$$

b. Formula II—applies to applicants for the Rockefeller State Wildlife Scholarship with 24 or more hours of graded college credit and to applicants for the TOPS—Teacher Award with 48 or more hours of graded college credit:

$$\text{Merit Score} = \left(\left(\frac{\text{College GPA}}{4.00} \times 95 \right) \% \left(\left(\frac{\text{College Level}}{4} \right) \times 5 \right) \right)$$

c. Formula III—applies to applicants for the TOPS Teacher Award. For those applicants majoring in math or chemistry, an additional 10 points are added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

d. Applicants' merit scores are ranked in descending order with the applicant with the highest merit score ranked first. The number of applicants selected for award is dependent upon the amount of award funds available.

Monetary Repayment—for purposes of the Rockefeller State Wildlife Scholarship and TOPS Teacher Award Programs, repaying the scholarship funding received, plus any interest accrued under the terms of the promissory note signed by the recipient, if the recipient fails to fulfill the terms of the program. See *Repayment*.

Over Award—for the purposes of LAC 28:IV, an over award occurs when a student received financial aid in excess of the cost of attendance as established in accordance with federal Title IV regulations or an award under state programs to which the student was not entitled.

Refund—a refund of school charges that the school makes to a student or to a creditor on behalf of the student, usually after the student has withdrawn from school. The refund to the student is the difference between the amount the student paid toward school charges minus the amount the school keeps for the portion of the payment period that the student was enrolled.

Repayment—the amount of the cash disbursement that a student must pay back to the school if the student withdraws from the program. If the cash disbursement was greater than the student's cost of attendance (student's education costs above and beyond the amount of tuition and fees) up to the withdrawal date, the student must repay the excess amount. The actual amount of the refund/repayment is determined according to the school's policy in accordance with federal regulations. See *Monetary Repayment*.

Substantial Financial Need—for purposes of the SSIG program only, substantial financial need is the difference between the student's cost of attendance and the sum of that student's expected family contribution (EFC), plus other student aid the student is due to receive. The difference thus computed must exceed \$199.

Tuition—the fee charged each student by a postsecondary institution to cover the student's share of the cost of instruction, including all other mandatory enrollment fees charged to all students, except for the Technology Fee authorized by Act 1450 of the 1997 Regular Session of the Legislature, which were in effect as of January 1, 1998, and any changes in the cost of instruction authorized by the legislature and implemented by the institution after that date.

Undergraduate Student—a student who has not completed the requirements for a baccalaureate degree program and/or is not classified as a professional student for the purposes of receipt of federal student aid.

Weighted Average Tuition—the total dollar value of awards made under the TOPS in the prior academic year, excluding award stipends, to students attending public colleges and universities that offer academic degrees at the baccalaureate level, divided by the total number of students that received the awards. For the 1998-99 award year only, the Weighted Average Tuition shall be computed using the total dollar value of awards made to students during academic year 1997-98 under the TAP and Louisiana Honors Scholarship Programs who attended public institutions which offer academic undergraduate degrees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:632 (April 1998), amended LR 24:1898 (October 1998).

Chapter 5. Application; Application Deadlines and Proof of Compliance

§501. Application

All new applicants for, and all continuing recipients of, Louisiana scholarship and grant programs must annually apply for state and federal aid by completing the Free Application for Federal Student Aid (FAFSA) or the renewal FAFSA, whichever is applicable to the individual student. The deadline for priority consideration for state aid is published in the FAFSA's instructions and may be revised annually by the LASFAC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1900 (October 1998).

§503. Application Deadlines

A. Deadline for Priority Consideration

1. For priority consideration for the 1998-99 award year, applicants must submit the FAFSA to be received by the federal processor by June 1, 1998.

2. Priority consideration means that an applicant who submits a FAFSA by this date shall, under normal circumstances, receive notification of his eligibility for a noncompetitive award (TOPS Opportunity, Performance and Honors Awards) prior to enrolling in the fall term.

3. An applicant for a competitively awarded scholarship (TOPS Teacher Award and Rockefeller State Wildlife Scholarship) who submits a FAFSA by this date shall be considered for selection of award in the first round of applicants awarded.

4. For priority consideration for award years after 1998-99, applicants must submit the FAFSA to be postmarked by April 15, or to be received by the federal processor by May 1, preceding the award year.

B. Final Deadline. The final deadline to apply for state aid is March 1 of the award year, by which time the FAFSA must have been received by the federal processor. For example, for the 1998-99 award year, the final deadline date for receipt of the application by the federal processor is March 1, 1999.

C. If a prescribed deadline date falls on a weekend or holiday, it will automatically be extended to the next business day.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1900 (October 1998).

§505. Proof of Compliance

As proof of compliance with the state's final deadline for submitting the FAFSA, LASFAC will accept the documentation listed in §505.1-3. No other form of verification, including notarized or certified statements, will be accepted as proof of compliance with the deadline requirement.

1. A certificate of mailing, registered, certified, certified/return receipt requested, priority or overnight mail receipt from the United States Postal Service, or other authorized mail carriers such as United Parcel Service and Federal Express, which is dated prior to the state's final deadline.

2. The Institutional Student Information Report (ESAR ISIR), produced by the federal processor, shows that the original application was received by the state's final deadline.

3. The federal processor provides verbal or written verification to LASFAC that the original application was received by the state's final deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998).

§507. Final Deadline for Submitting Documentation of Eligibility

A. LASFAC will continue to process eligibility for both new and renewal applicants during each award year until May 1 of the spring term of that award year.

B. Students not determined eligible by May 1 of the spring term of the award year are ineligible to receive program funding that award year.

C. All documentation and certifications necessary to establish student eligibility including, but not limited to, high school and/or college transcripts and certifications, copies of Student Aid Reports, applicant confirmation forms, promissory notes and other documents which may be utilized in determining eligibility, must be received by LASFAC no later

than May 1 of the award year. For example, to receive an award for the 1998-99 award year, LASFAC must have in its possession all documents relevant to establishing eligibility by May 1, 1999.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998).

Chapter 7. Tuition Opportunity Program for Students (TOPS) Opportunity; Performance and Honors Awards

§701. General Provisions

A. Legislative Authority. Awards under the Louisiana Tuition Opportunity Program for Students (TOPS), the Opportunity, Performance and Honors Awards, are established as set forth in R.S. 17:3048.1 et seq., as amended.

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) is a comprehensive, merit-based student aid program consisting of a series of components, with each component having its own eligibility criteria and titled award. The purpose of TOPS is to provide an incentive for Louisiana residents to academically prepare for and pursue postsecondary education in this state, resulting in an educated work force enabling Louisiana to prosper in the global market of the future. The major components of TOPS are the Opportunity award, the Performance award and the Honors award.

C. The Opportunity, Performance and Honors awards, which will be funded for the 1998-99 academic year, combine former programs (Louisiana Tuition Assistance Plan [TAP] and the Louisiana Honors Scholarship Program) with a new component, the Honors award, to produce a comprehensive program of state scholarships.

D. The purposes of this program are to:

1. financially assist those students who are academically prepared to continue their education at a Louisiana postsecondary institution; and

2. encourage academic excellence; and

3. provide incentives for Louisiana high school graduates to pursue postsecondary education in this state.

E. Award Amounts. The specific award amounts for each component of TOPS are as follows.

1. The TOPS Opportunity Award provides an amount equal to undergraduate tuition for full-time attendance at Louisiana public two- and four-year colleges and universities.

2. The TOPS Performance Award provides a \$400 annual stipend, in addition to an amount equal to tuition for full-time attendance at Louisiana public two- and four-year colleges and universities.

3. The TOPS Honors Award provides an \$800 annual stipend, in addition to an amount equal to tuition for full-time attendance at Louisiana public two- and four-year colleges and universities.

4. In lieu of the amount equal to tuition as provided by §701.E.1-3, students participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provide therein, plus any applicable TOPS stipend and a sum of not more than

\$150 per semester or \$300 annually for the actual cost of books and other instructional materials.

5. Students attending a regionally accredited independent college or university which is a member of the Louisiana Association of Independent Colleges and Universities (LAICU) receive an amount equal to the Weighted Average Tuition, as defined in §301, plus any applicable stipend.

6. Recipients of TOPS Awards who are also beneficiaries of Student Tuition Assistance and Revenue Trust (START) Saving Program accounts, may apply the START disbursements to pay tuition, and any remaining tuition due may be paid by the TOPS award. Any balance of the TOPS award which remains after payment of the institution's charges, shall be credited to the student's account and treated in accordance with institutional policies. In the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS Award shall be reduced by the amount of any remaining over award.

7. Students funded under the Tuition Assistance Plan (TAP) or the Louisiana Honors Scholarship during the 1997-98 award year, who have maintained eligibility for the 1998-99 award year, shall be continued as TOPS Opportunity or Performance recipients, respectively.

8. Prior recipients of the Louisiana Honors Scholarship who attend a campus of the Louisiana Technical College may continue to attend that institution as a recipient of TOPS Performance award; however, they are not eligible to receive the stipend that normally accompanies that award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:635 (April 1998), amended LR 24:1901 (October 1998).

§703. Establishing Eligibility

A. To establish eligibility for a TOPS Opportunity, Performance or Honors Award, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not wilful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for not less than two years prior to the date of high school graduation, or if completing an approved home study program, no less than two years prior to the FAFSA processor receipt date; and

3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §503; and

a. students who can demonstrate to LASFAC that they do not qualify for federal grant aid because of their family's financial condition are not required to complete those sections of the FAFSA related to the income and assets of the applicant and the applicant's parents;

b. the dependents of Louisiana residents on active duty with the Armed Forces stationed outside of the state of Louisiana must enter a Louisiana postsecondary institution in that section of the FAFSA which asks the applicant to name the colleges he plans to attend; and

4. initially apply and enroll as a *First-Time Freshman* as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901, and:

a. if graduating from an eligible Louisiana or an eligible non-Louisiana high school, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from high school; or

b. if the student joins the United States Armed Forces within one year after graduating from an approved high school, enroll not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school or within one year from the date of discharge, whichever is earlier;

c. if the student is eligible under the provisions of §703.A.5.c, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the receipt date on the initial FAFSA submitted by the student; or

d. if the student is eligible under the provisions of §703.A.5.c and has joined and is on active duty with the United States Armed Forces within one year of completion of the twelfth grade of an approved home study program, enroll not later than the semester or term, excluding summer semesters or sessions, immediately following the fifth anniversary of the completion of the approved home study program or within one year from the date of discharge, whichever is earlier; or

e. if a 1996-97 graduate who is an otherwise eligible applicant, enroll as a full-time student during fall, 1998;

5.a. graduate from a BESE-approved, provisionally-approved, or probationally-approved public or nonpublic Louisiana high school or eligible non-Louisiana high school as defined in §1703.A.3; and

i. at the time of high school graduation, an applicant must have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

Units	Course
1	English I
1	English II
1	English III
1	English IV
1	Algebra I (one unit) or Applied Algebra 1A and 1B (two units)
1	Algebra II
1	Geometry, Trigonometry, Calculus or Comparable Advanced Math
1	Biology I
1	Chemistry I

- 1 Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II or Physics, Physics II or Physics for Technology
- 1 American History
- 1 World History, World Culture, Western Civilization or World Geography
- 1 Civics and/or Economics/Free Enterprise
- 1 Fine Arts Survey; (or substitute two units Performance courses in Music, Dance and/or Theater; or two units of Studio Art or Visual Art; or one elective from among the other subjects listed in this core curriculum)
- 2 In the Same Foreign Language (one unit or credit for three or more hours of college foreign language for students graduating from high school during the 1996-97 and 1997-98 school years).
- ½ Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; (or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

ii. core units are waived upon sworn affidavit by the school board superintendent for public schools or by the principal or headmaster for nonpublic high schools that the course was not available to the student at the school attended; or

b. graduate from a BESE approved, provisionally-approved or probationally-approved public or nonpublic Louisiana high school or eligible non-Louisiana high school as defined in §1703.A.3. and have completed the core curriculum defined in §703.A.5.a.i, unless the following exceptions apply:

i. for students in graduating classes prior to the year 2001, one or more core units are waived based upon a sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

ii. for students who are *exceptional* or *disabled*, as defined in §301, be unable to complete one or more units in the core curriculum solely because of the exceptionality or disability;

iii. for students graduating in academic years 1996-97 and 1997-98, have successfully completed all requirements of the core curriculum except Foreign Language, and have successfully completed at least one unit of high school Foreign Language or three credit hours of Foreign Language in a postsecondary institution and have forwarded to LASFAC a transcript from the institution showing successful completion of at least three credit hours of Foreign Language; or

c. graduate from an out-of-state public or private high school approved by the chief state and territorial school officer (or the state agency which is the equivalent of Louisiana's Board of Elementary and Secondary Education) of the state in which the school is located (See §1701.A.4.); or

d. successfully complete at least the eleventh and twelfth grade levels of a home study program approved by BESE; and if having previously attended a Louisiana public

high school, a Louisiana nonpublic high school, or an approved non-Louisiana high school, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school; and

6. at the time of high school graduation, have taken the American College Test (ACT) and have correctly entered the applicant's high school code published by ACT, or for graduates of out-of-state high schools or approved home-study programs, that code assigned by ACT and have a composite test score or an equivalent concordant value on the Scholastic Aptitude Test (SAT) of at least:

a. if qualifying under the terms of §703.A.5.a or b;

i. the state's reported prior year ACT composite average, rounded, but never less than 19 for the Opportunity Award; or

ii. a 23 for the Performance Award; or

iii. a 27 for the Honors Award; or

b. if qualifying under §703.A.5.c or d;

i. the state's reported prior year average plus 3 points, rounded, but never less than 22 for the Opportunity Award; or

ii. a 26 for the Performance Award; or

iii. a 30 for the Honors Award; and

7. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

8. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

9. agree that awards will be used exclusively for educational expenses.

B. Students qualifying under §703.A.5.a and b, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, for all courses attempted and recorded on the high school transcript of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.50 for either the Performance or Honors Awards.

C. Students qualifying under §703.A.5.a and b, for the Performance Award only, must be certified as graduating in the top 5 percent of the 1997-98 high school graduating class, as defined in LAC 28:IV §1703.B.4, in lieu of completing the core curriculum.

D. Students who have qualified academically for more than one of the TOPS awards, excluding the TOPS Teacher Award, shall choose the award they wish to receive and thereafter must meet the renewal requirements of the award chosen. This choice, once made, is irrevocable.

E. Students graduating in academic years 1996-97 and 1997-98 who qualify under §703.A.5.b.iv, (graduates who did not complete one year of high school foreign language), must provide LASFAC a copy of their college transcript showing completion of one or more foreign language courses. Eligibility for an award is not established until receipt of the transcript verifying that the foreign language credit was earned and the student shall first be awarded for the semester or term

following that in which eligibility was established. Under this provision, eligibility must be established not later than the conclusion of the 1998-99 award year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:636 (April 1998), amended LR 24:1902 (October 1998).

§705. Maintaining Eligibility

A. To continue receiving the TOPS Opportunity, Performance or Honors Awards, the recipient must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Award funds; and

2. annually submit the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §501; and

3. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

4. not have a criminal conviction, except for misdemeanor traffic violations and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

5. agree that awards will be used exclusively for educational expenses; and

6. continue to enroll and accept the TOPS award as a full-time undergraduate student in an eligible postsecondary institution, as defined in §1901, unless granted an exception for cause by LASFAC; and

7. earn at least 24 college credit hours during the fall and spring semesters or fall, winter and spring quarters, as evaluated at the conclusion of the spring term. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

8. not be on academic probation the prior academic year, term, or semester at the postsecondary institution attended; and

9. maintain, by the end of each academic year (the conclusion of the spring term), a cumulative college grade point average (GPA) on a 4.00 maximum scale of at least:

a. a 2.30 with the completion of less than 48 credit hours, a 2.50 after the completion of 48 credit hours, for continuing receipt of an Opportunity Award; or

b. a 3.00 for continuing receipt of either a Performance or Honors Award.

B. Students failing to meet the requirements listed in §705.A.8 or §705.A.9.a or b may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required GPA, if the period of ineligibility did not persist for more than two years from the date of loss of eligibility. Students who are reinstated to a Performance or Honors Award are no longer eligible to receive the annual stipends that normally accompany these awards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1904 (October 1998).

Chapter 8. TOPS-TECH Award

§801. General Provisions

A. Legislative Authority. The TOPS-TECH Award was created by Act of the 1998 First Extraordinary Session of the Louisiana Legislature.

B. Description, History and Purpose. The TOPS-TECH award is a merit based scholarship program for Louisiana residents pursuing skill or occupational training at a Louisiana public community or technical college. The purpose of TOPS-TECH is to provide an incentive for qualified Louisiana residents to prepare for and pursue technical positions in Louisiana.

C. TOPS-TECH shall be first awarded beginning with the 1998-99 academic year to 1998 high school graduates and graduates in subsequent years.

D. TOPS-TECH provides an amount equal to tuition for up to two years of technical training at a public postsecondary institution that offers a vocational or technical education certificate or diploma program or a non-academic undergraduate degree.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998).

§803. Establishing Eligibility

A. To establish eligibility for the TOPS-TECH Award, the student applicant must meet the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not wilful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV, for not less than two years prior to the date of high school graduation, or if completing an approved home study program, no less than two years prior to the FAFSA processor receipt date; and

3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §503; and

4. initially apply and enroll in a technical program as a First-Time Freshman, as defined in §301, in a public community or Louisiana Technical College, unless granted an exception for cause by LASFAC, not later than the term or semester excluding summer semesters or sessions, immediately following the first anniversary of the date that the student graduated from high school or, if the student joins the United States Armed Forces within one year after graduating from high school, has enrolled in such eligible institution as a first-time freshman not later than the semester, excluding summer semesters or sessions, immediately following the fifth anniversary of the date that the student graduated from high school; and

5. graduate from:

a. a BESE-approved, provisionally-approved, or probationally-approved public or nonpublic high school or

eligible non-Louisiana high school, as defined in §1701.A.1, 2 and 3; or

b. an *out-of-state high school* defined in §1701.A.4;

or

c. successfully complete the eleventh and twelfth grades of a home study program approved by BESE; and if having previously attended a Louisiana public high school, a Louisiana nonpublic high school, or an approved non-Louisiana high school, has provided LASFAC with certification by the previously attended high school that said student was in good standing at the time the student last attended such school;

6. if qualifying under the terms of §703.A.5.a, at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting the TOPS core curriculum as defined in §703.A.5. or the TOPS-TECH core curriculum as follows:

a. Core Curriculum—TOPS-TECH Award

Units	Course
1	English I
1	English II
1	English III
1	English IV or Business English
1	Algebra I (one unit) or Applied Algebra IA and 1B (two units)
1	Algebra II
1	Geometry, Applied Geometry, Trigonometry, Calculus or comparable Advanced Math
1	Biology I
1	Chemistry I or Applied Physics
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II Physics, Physics II or Physics for Technology
1	American History
1	World History, Western Civilization or World Geography
1	Civics and Free Enterprise (one unit combined) or Civics (one unit, non-public)
1	Fine Arts Survey or any approved vocational course in the areas of Agriscience, Business Education, Family and Consumer Science, Health Occupations, Marketing Education, Technology Education, or Trade and Industrial Education; (or substitute two units of performance courses in music, dance and/or theater; or two units of studio art or two units of visual art courses; or one elective from among the other subjects listed in this core curriculum)
2	In the same Foreign Language. (one unit for students graduating from high school during the 1996-97 and 1997-98 school years.) or Technical Writing, Speech I or Speech II (two units).

½ Computer Science, Computer Literacy or Business Computer Applications (or substitute at least one-half unit of an elective course related to computers that is approved by the State Board of Elementary and Secondary Education; or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

b. for students in graduating classes prior to 2001, core units may be waived upon sworn affidavit by the principal or headmaster or authorized designee that the course was not available to the student at the school attended;

7. at the time of high school graduation, have taken the American College Test (ACT) and received composite test score, or an equivalent concordant value on the Scholastic Aptitude Test (SAT), of at least:

a. if qualifying under §703.A.5.a, the state's reported prior year average ACT composite score, rounded, but never less than 19;

b. if qualifying under §703.A.5.b or c, the state's reported prior year average ACT composite score, rounded, plus 3 points, but never less than 22; and

8. if qualifying under §703.A.5.a, have attained a cumulative high school grade point average, based on a 4.00 maximum scale, for all courses attempted and recorded on the high school transcript of at least 2.50; and

9. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

10. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

11. agree that awards will be used exclusively for educational expenses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1904 (October 1998).

§805. Maintaining Eligibility

A. To continue receiving the TOPS-TECH Award, the recipient must meet all of the following criteria:

1. have received the TECH Award for less than two years; and

2. annually, submit the Free Application for Federal Student Aid (FAFSA) or renewal FAFSA by the applicable state aid deadline defined in §501; and

3. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

4. not have a criminal conviction, except for misdemeanor traffic violations and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

5. agree that awards will be used exclusively for educational expenses; and

6. enroll continuously as a full-time student and accept the TECH Award at an eligible postsecondary institution defined in §1901, unless granted an exception for cause by LASFAC; and

7. earn at least 24 college credit hours during the fall and spring semesters or fall, winter and spring quarters, or complete an average of 30 clock hours per week, as evaluated at the conclusion of the spring term. Unless granted an exception for cause by LASFAC, failure to earn the required number of hours will result in permanent cancellation of the recipient's eligibility; and

8. not be placed on academic probation by the postsecondary institution attended the previous term or semester; and

9. maintain, by the end of each academic year (the conclusion of the spring term), a cumulative college grade point average of at least 2.50 on a 4.00 maximum scale.

B. Students failing to meet the requirements listed in §805.A.8 and 9 may have their tuition awards reinstated upon the lifting of academic probation and/or attainment of the required grade point average, if the period of ineligibility did not persist for more than one year from the date of loss of eligibility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1905 (October 1998).

Chapter 9. TOPS Teacher Award

§901. General Provisions

A. Legislative Authority. The TOPS Teacher Award Program was created by Act 476, of the 1997 Regular Session of the Louisiana Legislature and amended by Act 165 of the 1998 First Extraordinary Session of the Louisiana Legislature. This bill amended and reenacted R.S. 17:3042.1(A)(3) and (4), (B), (C), and (D) and 3042.2(A) and (B); reenacted R.S. 17:3042.1(A)(5) and (6) and 3042.8; and renamed Chapter 20-B of Title 17 of the Louisiana Revised Statutes of 1950.

B. Description, History and Purpose. The Tuition Opportunity Program for Students (TOPS) Teacher Award:

1. annually provides approximately 90 competitively awarded educational loans to residents of Louisiana who commit to teach at the elementary or secondary school level in Louisiana. When the recipient teaches at an approved school in Louisiana, the loans are forgiven in the ratio of one year of loan forgiveness for each year of teaching, or two years of loan forgiveness for each year of teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state as determined by the Board of Elementary and Secondary Education (BESE);

2. was first funded for the 1997-98 award year;

3. was created to provide an incentive for Louisiana's best and brightest students to become tomorrow's classroom teachers and to provide an incentive that will attract highly qualified teachers in mathematics and chemistry at the elementary and secondary school levels.

C. Award Amounts

1. Loans are made in the amount of \$6,000 per award year for mathematics and chemistry majors.

2. Loans are made in the amount of \$4,000 per year for teacher education majors other than those listed in §901.C.1.

3. Recipient may receive a maximum of four years of funding.

4. Recipients receive one half of the annual award (\$3,000 or \$2,000, respectively) at the beginning of the fall and spring terms.

5. Recipients may, in conjunction with the Teachers Award, receive another TOPS Award.

6. In the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS-Teacher Award shall be reduced by the amount of any remaining over award.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1906 (October 1998).

§903. Establishing Eligibility

To establish eligibility the student applicant must meet all of the following criteria:

1. be a U.S. Citizen or National or eligible non-citizen, and be registered with the Selective Service, if required, unless the institutional Financial Aid Officer determines that failure to register was not wilful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least two years prior to July 1 of the Award Year; and

3. annually submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §503; and

4. either;

a. graduate from a Board of Elementary and Secondary Education (BESE)-approved, provisionally-approved, or probationally-approved public or nonpublic high school; and

i. at the time of high school graduation, have successfully completed 16.5 units of high school course work constituting a core curriculum as defined in §703.A.1.a of LAC 28:IV; and

ii. at the time of high school graduation, have attained a composite score on the American College Test (ACT) or the Scholastic Aptitude Test (SAT) which is, or is equivalent to, at least a 23 on the 1990 version of the ACT; and

iii. graduate with a cumulative high school grade point average of at least a 3.25, calculated on a 4.00 scale, for all courses attempted and reported on the high school transcript; or

b. if by the end of June in the year of application, the student will have completed 24 or more but less than 48 hours of graded college credit, have at least a 3.25 cumulative college grade point average on a 4.00 scale; or

c. if by the end of June in the year of application, the student will have completed 48 or more hours of graded college credit, have at least a 3.00 cumulative college grade point average on a 4.00 scale; or

d. have received a baccalaureate degree from an accredited college or university and have a cumulative undergraduate grade point average of at least 3.00 calculated on a 4.00 scale; or

e. have received at least a master's degree from an accredited college or university; and

5. complete and submit such documentary evidence as may be required by LASFAC by the deadline specified in §503; and

6. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

7. not have a criminal conviction, except for misdemeanor traffic violations; and

8. agree that the award will be used exclusively for educational expenses; and

9. enroll during the fall term at an eligible college or university, as defined in §1901, as a full-time student, as defined in §301, in a degree program or course of study leading to a degree in education or an alternative program leading to regular certification as a teacher at the elementary or secondary level in mathematics or chemistry.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:637 (April 1998), amended LR 24:1906 (October 1998).

§905. Selection Criteria

Recipients are competitively selected for the award based upon the merit rank score computed and assigned to each eligible applicant. The formula for computing the merit rank score is defined in §301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998).

§907. Maintaining Eligibility

A. To continue receiving the TOPS Teacher Award, recipients must meet all of the following criteria:

1. have received less than four years or eight semesters of TOPS Teacher Awards ; and

2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours total credit during the fall, winter and spring terms; and

3. achieve a cumulative GPA of at least a 3.00 calculated on a 4.00 scale at the end of each academic year; and

4. not be placed on academic probation as determined by the college or university attended; and

5. continue to enroll each subsequent semester or quarter as a full-time student, unless granted an exception for cause by LASFAC, in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level; or

6. enter a program approved by the State Board of Elementary and Secondary Education (BESE) which leads to a degree in education or to regular certification as a teacher as soon as sufficient credits have been earned to do so; and

7. annually apply for federal and state student aid by completing the FAFSA or Renewal FAFSA, whichever is applicable to the student, by the state deadline; and

8. have no criminal convictions, except for misdemeanor traffic violations; and

9. be in compliance with the terms of all other federal and state aid programs which the student may be receiving and which are administered by LASFAC.

B. Recipients who do not maintain eligibility under the provisions of §907.A.3 or 4, may be reinstated upon attainment of the required GPA and/or academic standing and upon application for reinstatement addressed to LASFAC, provided the period of ineligibility did not exceed two years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998).

§909. Completion of Promissory Note and Acceptance of Award

Prior to receiving an award, the recipient must agree to the terms and conditions contained in the TOPS Teacher Award Program Promissory Note by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to teach one year for each year of funding received; or, if teaching in a school located in an *economically disadvantaged region* of the state, as defined by the State Board of Elementary and Secondary Education (BESE), teach one year for every two years of funding received, or repay the funds received, plus accrued interest and any collection costs incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998).

§911. Discharge of Obligation

A. The loan may be discharged by teaching for the required period of obligation, by monetary repayment or by cancellation.

B. Discharging the loan by teaching fulfillment is accomplished by:

1. within two years of the date of certification as a teacher, perform service as a full-time classroom teacher in a Louisiana Board of Elementary and Secondary Education (BESE)-approved, provisionally-approved, or probationally-approved elementary or secondary school;

2. each year of full-time service as a teacher will fulfill an equivalent period of funding. However, if teaching in an economically disadvantaged region of the state, as defined by BESE, one year of teaching will fulfill two years of funding;

3. the first semester of full-time teaching will be applied toward of the earliest dated disbursement not previously paid under §911.C, the second semester the next earliest dated

disbursement, and continuing until all disbursements have been fulfilled;

4. teaching to discharge the loan must be completed within six years from the date of certification as a teacher.

C. Discharging the loan by Monetary Repayment. Recipients who elect not to discharge the obligation by teaching and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest and any collection costs incurred according to the following terms and conditions:

1. interest will accrue on the outstanding principal at the rate of 8 percent per annum;

2. interest on each disbursement will accrue from the date of disbursement until repaid, canceled or fulfilled. Accrued interest will be capitalized when the recipient enters repayment status;

3. repayment status. The recipient enters repayment status the first of the month following:

a. determination by LASFAC that the recipient cannot discharge the loan by teaching within the required time period;

b. the date the recipient notifies LASFAC by the recipient that monetary repayment is desired; or

c. six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary school level;

4. the amount to be repaid annually will be the greater of:

a. the amount necessary to repay the capitalized loan principal within 10 years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

5. recipients in repayment status may have their payments deferred in accordance with §2105.B., Deferment of Repayment Obligation;

6. during the period of time a recipient is in deferment status, a recipient is not required to make repayments and interest does not accrue;

7. the period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

D. Cancellation. The obligation to repay any remaining unpaid balance of the TOPS Teacher Award shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from gainful employment because of a complete and permanent medical disability or condition; or

2. upon submission to LASFAC of a death certificate or other evidence conclusive under state law, that the recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:638 (April 1998), amended LR 24:1907 (October 1998).

Chapter 11. Rockefeller State Wildlife Scholarship

§1101. General Provisions

A. Legislative Authority. The Louisiana State Wildlife Scholarship Program was created and amended by the following Acts of the Louisiana Legislature:

1. Act 807 of the 1980 Regular Legislative Session;
2. Act 849 of the 1987 Regular Legislative Session;
3. Act 707 of the 1989 Regular Legislative Session.

B. Description, History and Purpose

1. The Rockefeller State Wildlife Scholarship Program was established in 1980 and is funded with dedicated monies and offers competitively awarded scholarships valued at \$1,000 per academic year to both undergraduate and graduate students majoring in forestry, wildlife, or marine science as it pertains to wildlife;

2. In accepting the Rockefeller State Wildlife Scholarship, the student agrees to attain a degree in one of the required fields at a Louisiana public college or university offering such degrees. If the student fails to successfully complete an eligible course of study, as per the agreement made between LASFAC and the student, the funds must be repaid with interest.

C. Award Amounts

1. The annual award is \$1,000.

2. The cumulative maximum award is \$7,000 for up to five years of undergraduate and two years of graduate study.

3. The award is disbursed at the rate of \$500 each fall and spring term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998).

§1103. Establishing Eligibility

To establish eligibility, the student applicant must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and be registered with the Selective Service if required, unless the institutional Financial Aid Officer determines that failure to register was not wilful; and

2. be a resident of Louisiana, as defined in §301 of LAC 28:IV for at least one year prior to July 1 of the Award Year; and

3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or the Renewal FAFSA, whichever is applicable to the student, by the state aid deadline defined in §503; and

4. complete and submit such documentary evidence as may be required by LASFAC; and

5. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and

6. not have a criminal conviction, except for misdemeanor traffic violations; and

7. agree that award proceeds will be used exclusively for educational expenses; and

8. be enrolled or accepted for enrollment as a full-time undergraduate or graduate student at a Louisiana public

college or university majoring in forestry, wildlife or marine science, with the intent of obtaining a degree from a Louisiana public college or university offering a degree in one of the three specified fields; and

9.a. must have graduated from high school, and if at the time of application the student applicant has earned less than 24 hours of graded college credit since graduating from high school, have earned a minimum cumulative high school grade point average of at least 2.50 calculated on a 4.00 scale for all courses completed in grades 9 through 12 and have taken the ACT or SAT and received test score results; or

b. if, at the time of application, the student applicant has earned 24 or more hours of college credit, then the applicant must have at least a 2.50 cumulative college grade point average.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:639 (April 1998), amended LR 24:1908 (October 1998).

§1105. Selection Criteria

Recipients are competitively selected for an award based upon the merit rank score computed and assigned to each eligible applicant. The formula for computing the merit rank score is defined in §301.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:1909 (October 1998).

§1107. Maintaining Eligibility

To continue receiving the Rockefeller State Wildlife Scholarship, recipients must meet all of the following criteria:

1. have received the scholarship for not more than seven academic years (five undergraduate and two graduate) ; and

2. at the close of each academic year (ending with the spring semester or quarter), have earned at least 24 hours total credit during the fall, winter and spring terms at an institution defining 12 semester or eight quarter hours as the minimum for full-time undergraduate status or earn at least 18 hours total graduate credit during the fall, winter and spring terms at an institution defining nine semester hours as the minimum for full-time graduate status unless granted an exception for cause by LASFAC; and

3. achieve a cumulative grade point average of at least 2.50 at the end of the first academic year and each academic year thereafter; and

4. continue to enroll each subsequent semester or quarter (excluding summer sessions and intersessions) at the same institution unless granted an exception for cause and/or approval for transfer of the award by LASFAC; and

5. continue to pursue a course of study leading to an undergraduate or graduate degree in wildlife, forestry or marine science.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:1909 (October 1998).

§1109. Completion of Promissory Note and Acceptance of Award

Prior to receiving an award, the recipient must agree to the terms and conditions contained in the Rockefeller State Wildlife Scholarship Program Promissory Note (LASFAC-Form RS02), by completing the form and returning it to LASFAC by the specified deadline. The promissory note obligates the recipient to obtain a Wildlife, Forestry or Marine Science degree or repay the scholarship funds received, plus accrued interest and any collection costs incurred.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:1909 (October 1998).

§1111. Discharge of Obligation

A. The loan obligation may be discharged by graduation in an eligible major, monetary repayment or cancellation.

B. Graduation In an Eligible Major. Awards to undergraduates are discharged by the recipient's attainment of a bachelor's degree; graduate awards are discharged by attainment of a master's or doctorate degree in wildlife, forestry or marine science.

C. Monetary Repayment. Recipients who do not discharge the obligation by graduating in an eligible major and who are not eligible for discharge by cancellation must repay the loan principal, plus accrued interest and any collection costs incurred in accordance with the following terms and conditions:

1. interest accrues on the outstanding principal at the rate of 8 percent per annum;

2. interest on each disbursement accrues from the date of disbursement until repaid, canceled or fulfilled. Accrued interest will be capitalized when the recipient enters repayment status;

3. repayment status. The recipient enters repayment status the first day of the month following:

a. the date the recipient notifies LASFAC that monetary repayment is desired; or

b. six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in wildlife, forestry or marine science;

4. the annual repayment amount will be the greater of:

a. the amount necessary to repay the capitalized loan principal within seven years; or

b. \$1,200 per year or the unpaid balance, whichever is less;

5. recipients in repayment status may have their payments deferred in accordance with §2105.B, titled Deferment of Repayment Obligation;

a. during the period of time a recipient is in deferment status, the recipient is not required to make payments and interest does not accrue;

b. the period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

D. Cancellation. The obligation to repay all or part of Rockefeller State Wildlife Scholarship Program funds shall be canceled in the event either of the following occurs:

1. upon submission to LASFAC of a sworn affidavit from a qualified physician that the recipient is precluded from completing the educational program and/or from gainful employment because of a complete and permanent medical disability or condition;

2. upon submission to LASFAC of a death certificate, or other evidence conclusive under state law, that the recipient is deceased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:640 (April 1998), amended LR 24:1909 (October 1998).

Chapter 13. State Student Incentive Grant (SSIG)

§1301. General Provisions

A. Legislative Authority

1. Federal

a. Title IV of the Higher Education Act of 1965;

b. 34 CFR Part 692, as amended;

c. Title IV of the Higher Education Amendments of 1992 (Public Law 102-325).

2. State

a. R.S. 17:3032.5;

b. Act 632 of the 1974 Regular Legislative Session;

c. Act 228 of the 1977 Regular Legislative Session.

B. Description, History and Purpose. The Louisiana State Student Incentive Grant Program (SSIG), first funded in 1975, provides need-based grants to academically qualified students using federal and state funds. These grants are to be used for educational expenses including tuition and fees, books and supplies, and living expenses, such as room, board and transportation.

C. Louisiana administers a decentralized SSIG Program. Certain functions of the program are delegated to participating schools. Schools approved for participation in the Louisiana SSIG Program must have federal eligibility and must annually submit a state application and be approved for state participation. Funding available for a specific award year is allocated to eligible in-state postsecondary institutions who select and certify recipients to LASFAC. LASFAC forwards award funding to the institutions for disbursement to the student or student's account.

D. Award Amounts. Individual grants range from an annual minimum of \$200 to a maximum of \$2,000; however, the actual amount of each student's award is determined by the financial aid office at the institution and is governed by the number of recipients selected and the amount of funds available. Awards are based upon a full academic year, excluding summer sessions and intersession, beginning with the fall term and concluding with the spring term.

E. Allocation of Funds. Annually, funds are allocated to postsecondary institutions based on school type, the school's prior year first-time, full-time enrollment and the amount of the prior year's allocation that was expended. Initial funds, for first-time recipients, are computed as a percentage of all participating institutions first-time, full-time enrollment as of October 10 of the prior fiscal year. A student's enrollment in

an undergraduate degree granting school which is a component of a state supported medical center, shall be a first-time, full-time freshman for the purpose of this program. Continuation funds for students who had previously received SSIG are computed as a percentage of the allocated funds used during the previous year. The continuation formula applies 60 percent for four year schools and 40 percent for two-year schools.

F. Reallocation of Funds. Uncommitted institutional allotted funds are reallocated if not committed by the deadline of November 1 for colleges and universities and January 1 for proprietary schools and campuses of Louisiana Technical College. The method of reallocation is dependent upon the amount of funds available for reallocation. If the reallocation amount is less than \$50,000, then only two- and four-year colleges and universities, which have fully committed their original allotment by the appropriate deadline, receive a reallocation. If \$50,000 or more is available for reallocation, it is reallocated to eligible schools of all types, which have fully committed their original allotment by the appropriate deadline.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:641 (April 1998), amended LR 24:1910 (October 1998).

§1303. Establishing Eligibility

SSIG applicants must meet all of the following criteria:

1. be a U.S. citizen or national or eligible noncitizen, and registered with the Selective Service, if required; and

2. be a resident of Louisiana, as defined in §301 for at least one year prior to July 1 of the Award Year; and

3. annually, submit the completed Free Application for Federal Student Aid (FAFSA) or Renewal FAFSA, whichever is available to the applicant, by the state deadline defined in §503 and any deadline imposed by the institution attended; and

4. have a high school diploma with at least a 2.00 cumulative grade point average, or a minimum average score of 45 on the General Educational Development (GED) test, or an ACT composite score of at least 20, or a postsecondary grade point average of at least 2.00 from the most recent term; and

5. be selected and certified by the school for receipt of an SSIG award, contingent upon final approval by LASFAC; and

6. meet any additional selection criteria established by the individual institution participating in the SSIG Program; and

7. be certified as a full-time undergraduate student in an eligible program at an eligible postsecondary institution, as defined in §1901; and either:

a. be enrolled full time at the time of disbursement if disbursement occurs on or prior to the fourteenth class day (ninth class day for Louisiana Tech); or

b. be enrolled full time as of the fourteenth class day (ninth class day at Louisiana Tech) and is enrolled at least half-time at the time of disbursement if disbursement occurs after the fourteenth class day (ninth class day at Louisiana Tech); and

8. have substantial financial need, as defined in §301; and
9. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and
10. not have a criminal conviction, except for misdemeanor traffic violations; and
11. agree that the award proceeds will be used exclusively for educational expenses; and
12. not be in default of an educational loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:641 (April 1998), amended LR 24:1910 (October 1998).

§1305. Maintaining Eligibility

To continue receiving an SSIG Award, the recipient must meet all of the following criteria:

1. meet all of the initial eligibility criteria listed in §1303; and
2. maintain a cumulative postsecondary grade point average of at least 2.00 calculated on a 4.00 scale by the conclusion of the spring term.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:642 (April 1998), amended LR 24:1911 (October 1998).

Chapter 15. T. H. Harris Scholarship

§1501. General Provisions

A. Legislative Authority

1. R.S. 17:3036.1;
2. Act 24 of the 1938 Regular Legislative Session;
3. Act 199 of the 1940 Regular Legislative Session;
4. Act 19 of the 1942 Regular Legislative Session;
5. Act 499 of the 1948 Regular Legislative Session;
6. Act 83 of the 1977 Regular Legislative Session;
7. Act 710 of the 1985 Regular Legislative Session;
8. Act 663 of the 1990 Regular Legislative Session.

B. Description, History and Purpose. The T.H. Harris Scholarship Program was first funded with state general funds in 1942 for the purpose of granting scholarships to deserving youth enrolling at state-supported colleges or universities. A maximum cumulative award, assuming the recipient maintains eligibility, is \$2,000 for five years of study. Effective with award year 1996-97, applications are not being accepted and the program is being phased out. Students awarded during the 1995-96 award year, continue to receive an award, as long as funds are available and they maintain continuing academic eligibility.

C. Award Amounts. The annual award is \$400, with a cumulative maximum award of \$2,000 for five years. Recipients receive \$200 each fall and spring term, less a \$5 award fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:642 (April 1998), amended LR 24:1911 (October 1998).

§1503. Maintaining Eligibility

To continue to receive T.H. Harris Scholarship funds, recipients must meet all of the following criteria:

1. be in compliance with the terms of other federal and state aid programs which the applicant may be receiving and which are administered by LASFAC; and
2. agree that award proceeds will be used exclusively for educational expenses; and
3. continue to enroll as a full-time undergraduate student in a two- or four-year public college or university, unless granted an exception for cause by LASFAC; and
4. successfully complete the minimum number of hours required for a full-time student as defined in §301; and
5. achieve a cumulative grade point average of at least 3.00, on a 4.00 scale, at the conclusion of the spring term each academic year; and
6. have received less than 10 semesters of T.H. Harris funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:642 (April 1998), amended LR 24:1911 (October 1998).

Chapter 17. Responsibilities of High Schools, School Boards, Special School Governing Boards, the Louisiana Department of Education and LASFAC on Behalf of Eligible Non-Louisiana High Schools

§1701. Eligibility of Graduates Based Upon the High School Attended

A. Graduates of the following high schools are eligible to participate in LASFAC's Scholarship and Grant programs, as authorized herein:

1. Louisiana Public High Schools—public high schools listed in the *Louisiana School Directory* (Louisiana Department of Education Bulletin 1462);
2. approved Nonpublic High Schools—nonpublic high schools approved by the Louisiana Board of Elementary and Secondary Education (BESE) and listed in the *Louisiana School Directory* (Bulletin 1462), as an approved nonpublic school which meets the standards specified in *The Louisiana Handbook for School Administrators* (Bulletin 741). For the purposes of LAC 28:IV, approved nonpublic schools include private or diocesan high schools classified annually by the Department of Education as approved, provisionally-approved or probationally-approved;
3. eligible Non-Louisiana High Schools—eligible non-Louisiana high schools are high schools which meet all of the following:

- a. are in a state adjoining the state of Louisiana; and
- b. have provided LASFAC with acceptable evidence of an agreement dated prior to June 5, 1994, between a parish school system in the state of Louisiana and the high school's local governing authority, which authorizes the attendance of students who are residents of Louisiana; and
- c. have students who graduate during the academic year preceding the award year, who were residents of Louisiana and who were funded through the Louisiana minimum foundation program; and

d. have certified the academic performance of Louisiana graduates, in accordance with §1703;

4. Out-of-State High Schools—all other public or non-public high schools located in one of the United States other than Louisiana, which have been approved by the state's chief state or territorial school officer listed in the Louisiana Department of Education Bulletin 1462, or by the public body which is that state's equivalent of Louisiana's Board of Elementary and Secondary Education, and those high schools located in foreign countries which have been authorized or approved by a Department in the Executive Branch of the United States government to teach the dependents of members of the U.S. Armed Forces stationed abroad;

a. graduates of out-of-state high schools are eligible to participate in the Rockefeller State Wildlife Scholarship and the State Student Incentive Grant Programs;

b. graduates of out-of-state high schools who are Louisiana residents or the dependents of a Louisiana resident serving on active duty with the Armed Forces or who have a parent who is a Louisiana resident are eligible to participate in TOPS.

B. Non-high school graduates who have earned a General Education Diploma (GED) in lieu of a high school diploma are eligible to participate in the State Student Incentive Grant Program and if they have completed a BESE approved home study program, are eligible to participate in TOPS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:642 (April 1998), amended LR 24:1911 (October 1998).

§1703. High School's Certification of Student Achievement

A. Responsibility for Reporting and Certifying Student Performance

1. Responsibility for the identification and certification of high school graduates who meet the academic qualifications for a TOPS award is as follows:

a. the principal or the principal's designee for public high schools;

b. the principal or headmaster or designee of each nonpublic high school approved by the State Board of Elementary and Secondary Education (BESE);

c. the principal or headmaster or designee of an eligible non-Louisiana high school;

d. the principal or headmaster or designee of an out-of-state high school is responsible only for providing the high school transcript or the date of graduation for those students who have applied for a student aid program administered by LASFAC.

2. The Louisiana Department of Education shall report to LASFAC the names of students who are enrolled in and have completed all mandatory requirements through the twelfth grade level of a state-approved home study program. B. Procedures for Reporting and Certifying Student Performance

1. The responsible high school authority shall record student performance on the form provided by LASFAC or in an electronic format pre-approved by LASFAC. The

certification form shall be completed, certified and returned to LASFAC by the deadline specified on the form.

2. The certification form shall contain, but is not limited to, the following reportable data elements:

a. student's name, address, phone number and social security number;

b. month and year of high school graduation;

c. final cumulative high school grade point average for all courses attempted and recorded on the transcript, converted to a maximum 4.00 scale, if applicable;

d. number of core units earned and the number of core units unavailable to the student at the school attended;

e. total number of graduates in the graduating class and the names of those students who graduated in the top 5 percent of the class in accordance with §1703.B.4.a.

3. The responsible high school authority shall certify to LASFAC the final cumulative high school grade point average of each applicant and that average shall be inclusive of grades for all courses attempted and recorded on the applicant's official high school transcript and shall be computed and reported on a maximum 4.00 grading scale.

a. The following grading conversion shall be used to report the applicant's cumulative high school grade point average:

i. letter grade A = 4 quality points;

ii. letter grade B = 3 quality points;

iii. letter grade C = 2 quality points;

iv. letter grade D = 1 quality point.

b. Schools which award more than 4 quality points for a course must convert the course grade to a maximum 4.00 scale using the formula described in the example that follows. [In this example, the school awards one extra quality point for an honors course.]

i. Example: an applicant earned a C in an Honors English IV course and received 3 out of the 5 possible quality points that could have been awarded for the course.

ii. In converting this course grade to a standard 4.00 maximum scale, the following formula must be used:

$$\frac{\text{Quality Points Awarded for the Course}}{\text{Maximum Points Possible for the Course}} \cdot \frac{X (\text{Converted Quality Points})}{4.00 (\text{Maximum Scale})}$$

$$\frac{3.00}{5.00} \cdot \frac{X}{4.00}$$

By cross multiplying,

$$5X = 12; X = 2.40$$

iii. In this example, the quality points for this Honors English IV course should be recorded as 2.40 when the school calculates and reports the student's cumulative high school grade point average.

4. Determine the number of 1998 graduates who are in the top 5 percent of their high school graduating class using the procedures previously adopted for the former Honors Scholarship Program and which comply with the following:

a. city and parish school boards, nonpublic high schools, special school governing boards, and LASFAC on behalf of eligible non-Louisiana high schools, shall adopt, publish and forward to LASFAC criteria for ranking graduates and determining the top 5 percent of the graduating class for high schools under their jurisdiction. Such criteria shall:

rounds up to 2.0

i. consider only the academic grades for those courses recorded on the student's official high school transcript; and

ii. define the academic courses which are to be considered in determining academic class ranking; and

iii. define the procedure by which students who would otherwise have equal academic class ranking may be ranked (tie-breaker procedure). This may include an evaluation of students' academic grades on a set of predetermined core academic courses such as English, math and science or an evaluation of the level of difficulty of the courses taken by the students, such as honors courses and higher level math or science courses; and

iv. be adopted by an affirmative act taken during a public meeting;

b. using the following formula, determine the number of graduates in the top 5 percent:

i. in computing the top 5 percent of each Louisiana high school's graduating class, apply the following formula to compute the maximum number of graduates who may rank in the top 5 percent for the purposes of the performance award:

(a). the total number of students who are Louisiana residents receiving high school diplomas from the institution during the academic year preceding the award year, multiplied by the figure 0.05, and, if not a whole number, rounded up to the next whole number. Foreign exchange students and other nonresidents shall not be counted as members of the graduating class for the purpose of this computation.

(b). Example: for a high school that awarded state high school diplomas to two summer graduates, seven midyear graduates and 79 spring graduates during the academic year, the following computation would apply:

$$(2\%7\%79) ' 88; (88 \times 0.05) ' 4.4;$$

4.4 rounds up to 5.0

(c). accordingly, five students may be selected for the performance award at the high school depicted in the example;

ii. in computing the top 5 percent of each eligible non-Louisiana high school's graduating class and calculating the number of Louisiana residents to be named as performance award recipients, apply the following formulas:

(a). the total number of students, both Louisiana residents and non-Louisiana residents, receiving a high school diploma from the institution during the academic year preceding the award year, multiplied by the figure 0.05, and, if not a whole number, rounded up to the next whole number. Example:

$$\text{Total Graduates} ' 69; (69 \times 0.05) ' 3.45;$$

rounds up to 4.0

(b). the number of academic year graduates who are Louisiana residents funded through the Louisiana minimum foundation program (MFP), multiplied by the figure 0.05, and, if not a whole number, rounded up to the next whole number. (Louisiana resident graduates not funded through MFP shall not be counted in this calculation). Example:

(c). to be certified as a performance award recipient, the student must rank both in the top 5 percent of the non-Louisiana high school's total academic year graduating class, as well as in the top 5 percent of minimum foundation program-funded Louisiana residents in the graduating class;

(d). in the examples provided above, the maximum number of Louisiana residents to be certified for the performance award is two, and the minimum number is zero. If only one Louisiana resident ranked in the top 5 percent (4 of 69) of the total graduates, then only one student could be certified to the performance award. Conversely, if three Louisiana residents ranked in the top 5 percent (4 of 69), only the top two of these three could be certified.

c. ensure that the approved selection criteria are publicly posted in each high school under the board or headmaster's jurisdiction and provide a copy of the criteria to LASFAC;

d. ensure that amendments to the criteria, as approved by the board or headmaster, shall only be effective for the years following the year in which amended.

C. Certifying 1998 Graduates for the TOPS Performance Award. 1998 Graduates who are ranked in the top 5 percent of their graduating class in accordance with §1703 shall be credited with having completed the core curriculum for purposes of the TOPS; however, only those meeting the following criteria shall be eligible for the Performance Award:

1. those students who have attained a final cumulative high school grade point average of at least a 3.50 on a 4.00 maximum scale; and

2. an ACT score of at least 23.

D. Certification by Sworn Affidavit. The high school headmaster or principal or designee shall certify by sworn affidavit that:

1. all data supplied on the certification form are true and correct, to the best of his knowledge or belief, and that they reflect the official records of the school for the students listed; and

2. records pertaining to the listed students will be maintained and available upon request to LASFAC and the legislative auditor for a minimum of three years or until audited, whichever occurs first; and

3. the school under the principal's jurisdiction shall reimburse LASFAC for the amount of a program award which was disbursed on behalf of a graduate of the school, when it is subsequently determined by audit that the school incorrectly certified the graduate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:643 (April 1998), amended LR 24:1912 (October 1998).

§1705. Notification of Certified Students

A. High schools are required to present a certificate of achievement during the graduation ceremony or other school

reception to students qualifying as recipients of TOPS Performance and Honors Awards.

B. High schools are required to invite members of the Louisiana Legislature representing the school's district to attend the ceremony or reception and to make the presentation awarding the endorsed certificates of achievement.

C. If the certifying authority elects to notify students of their certification, then the following disclaimer shall be included in any communication to the student:

"Although you have been certified as academically eligible for a Tuition Opportunity Program for Students (TOPS) Award, you must satisfy all of the following conditions to redeem a scholarship under this program:

1. You must be a Louisiana resident as defined by the Louisiana Student Financial Assistance Commission; and
2. You must be accepted for enrollment by an eligible Louisiana college and be registered as a full-time undergraduate student; and
3. You must annually apply for federal student aid by the deadline required for consideration for state aid; and
4. You must have met all academic and nonacademic requirements and be officially notified of your award by the Louisiana Student Financial Assistance Commission (LASFAC)."

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:644 (April 1998), amended LR 24:1913 (October 1998).

Chapter 19. Eligibility and Responsibilities of Postsecondary Institutions

§1901. Eligibility of Postsecondary Institutions to Participate

A. Undergraduate degree granting schools which are components of Louisiana public university medical centers and two- and four-year public colleges and universities are authorized to participate in the Tuition Opportunity Program for Students (TOPS), Rockefeller State Wildlife Scholarship, State Student Incentive Grant (SSIG) and the T.H. Harris Scholarship.

B. Regionally accredited private colleges and universities which are members of the Louisiana Association of Independent Colleges and Universities, Inc. (LAICU) are authorized to participate in TOPS and SSIG. As of November 1997, LAICU membership included Centenary College, Dillard University, Louisiana College, Loyola University, Our Lady of the Lake College of Nursing and Allied Health, Our Lady of Holy Cross College, Tulane University and Xavier University.

C. Campuses of Louisiana Technical College are authorized to participate in TOPS-TECH and SSIG.

D. Approved Louisiana proprietary and beauty schools are authorized to participate in SSIG only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:645 (April 1998), amended LR 24:1914 (October 1998).

§1903. Responsibilities of Postsecondary Institutions

A. Certification of Student Data. Upon request by LASFAC, and for the purpose of determining an applicant's eligibility for a program award, an institution will report the following student data:

1. admission and full-time undergraduate enrollment; and

2. eligibility for, or enrollment in, a course of study leading to initial teacher certification; and

3. enrollment in math or chemistry as a major while pursuing teacher certification; and

4. graduate or undergraduate enrollment in wildlife forestry or marine science; and

5. cumulative college grade point average; and

6. cumulative college credit hours earned;

7. academic year hours earned.

B. Program Billing. Each term, institutions shall bill LASFAC for students who are recipients of a TOPS Award and who have enrolled at the institution in accordance with the following terms and conditions:

1. institutions may only bill for students who have been certified by LASFAC as eligible for a TOPS award; and

2. institutions will bill LASFAC based on their certification that the recipient of a TOPS Award is enrolled full time, as defined in §301, as of the fourteenth class day (ninth class day for Louisiana Tech, first class day for campuses of Louisiana Technical College, and for any qualifying summer sessions as of the last day to drop and receive a full refund for the full summer session). Institutions shall not bill for students who are enrolled less than full time on the fourteenth class day (ninth class day for Louisiana Tech, first class day for campuses of Louisiana Technical College, and for any qualifying summer sessions as of the last day to drop and receive a full refund for the summer session), unless the student qualifies for payment for less than full-time enrollment as defined in §2103.B. Students failing to meet the full-time enrollment requirement are responsible for reimbursing the institution for any awards received. Refunds of awards to students who are not receiving federal Title IV aid, for less than full-time enrollment after the fourteenth class day, shall be returned to the state. Refunds to students who are receiving federal Title IV aid shall be refunded to the state in accordance with the institution's federal Title IV aid refund procedures; and

3. in the event the student's total aid, including Vocational Rehabilitation Awards, exceeds the Cost of Attendance, any federal loan aid included in the total aid package shall be reduced, then institutional and other aid in accordance with institutional practice, then the TOPS award shall be reduced by the amount of any remaining over award;

4. annually, two- and four-year institutions are required to provide LASFAC a current fee schedule. The schedule must include an itemized description of the composition of the mandatory fees listed on the fee schedule;

5. campuses of Louisiana Technical College are exempt from furnishing a schedule of fees, but must bill LASFAC on the first class day of each quarter for three times the monthly amount established by the Board of Elementary and Secondary Education (BESE) for full-time attendance; and

6. certify that the institution will reimburse LASFAC for any award funds incorrectly disbursed to ineligible students; and

7. upon the school's certification that a recipient of a TOPS Award is enrolled full time, institutions shall bill for and LASFAC will reimburse the institution for each such recipient as follows:

a. public two- and four-year colleges and universities may bill for an amount up to the maximum tuition for that institution, as defined in §301;

b. Louisiana Technical College campuses may bill each quarter for three times the monthly amount established by the Board of Elementary and Secondary Education (BESE) for full-time attendance;

c. LAICU member colleges and universities may bill for an amount up to the weighed average tuition , as defined in §301;

d. for recipients of the Performance and Honors awards, institutions may bill LASFAC for the stipend that accompanies these awards, in the amounts of \$200 or \$400 per semester, respectively;

C. Annual Application for Participation in, and Certification of Recipients of the SSIG Program

1. Annually, LASFAC forwards SSIG institutional participation agreements to those schools participating in the program during the prior award year, and upon written requests received, to schools not participating in the SSIG Program during the prior award year. To be eligible for allotment of SSIG funds the institution must meet all of the following requirements:

a. complete and return the annual SSIG application by the specified deadline; and

b. certify that students and parents will not be charged a fee for the collection of information used to determine the student's eligibility for SSIG; and

c. certify that students listed on the recipient roster meet federal, state and institutional specific SSIG eligibility criteria; and

d. certify that if the institution's SSIG allotment is based in part on the financial need of independent students, as defined by the U.S. Department of Education, a reasonable portion of the institution's allotment is being made available to independent students; and

e. certify that each SSIG recipient's total package of aid does not exceed the student's financial need; and

f. certify that SSIG funds recovered from over awards, refunds, and/or repayments, as defined in §301, during the applicable award period shall be returned to LASFAC to be reissued to other qualified students. Funds recovered from over awards, refunds and/or repayments after the applicable award period shall be returned to LASFAC for return to the U.S. Department of Education and/or the state of Louisiana. The amount of over award, refund and/or repayment shall be determined according to the school's policy established in accordance with federal regulations.

2. Annually, LASFAC provides eligible institutions an official allotment schedule, recipient roster and institution certification forms. Institutions are required to:

a. complete and return recipient rosters and institutional certification forms to ensure expenditure of allotted SSIG awards by the school specific deadlines of November 1 for public and LAICU member two- and four-year colleges and universities and January 1 for campuses of Louisiana Technical College and proprietary institutions; and

b. submit changes to the recipient roster by completing a replacement roster, provided by LASFAC; and

c. certify that if any SSIG funds are released in error to ineligible students, the institution will either recover the award amount from the students and refund to LASFAC or remit the refund due.

D. Disbursement of Funds. Upon receipt of award funds and prior to their disbursement to students, the institution shall:

1. for TOPS Teacher Award recipients:

a. verify that the recipient is enrolled full time in an approved degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level; or

b. if designated as a math or chemistry major, verify enrollment in a course of study leading to certification as a math or chemistry teacher;

2. for Rockefeller State Wildlife Scholarship recipients, verify undergraduate or graduate enrollment, whichever is applicable to the student, in:

a. Wildlife, Forestry or Marine Science; or,

b. another major specified by the Louisiana Department of Wildlife and Fisheries as meeting their criteria for receipt of scholarship funds;

3. release award funds by crediting the student's account within 14 days of the institution's receipt of funds or disbursing individual award checks to recipients as instructed by LASFAC. Individual award checks for the T.H. Harris Scholarship, Rockefeller State Wildlife Scholarship, TOPS Teacher Award and SSIG must be released to eligible recipients within 30 days of receipt by the school or be returned to LASFAC.

E. Reporting of Academic Data. At the conclusion of each academic year, the institution will complete and return to LASFAC, a College Academic Grade Report including, but not limited to, the following data elements:

1. academic year hours earned; and

2. cumulative hours earned; and

3. cumulative grade point average;

4. academic standing, and if applicable, date of placement on academic probation; and

5. upon graduation, degree date and type and name of degree.

F. Records Retention. Records pertaining to the students listed on the billing certification form will be subject to audit as required by state statute. Such records will be maintained for a minimum of three years and be available upon request to LASFAC and the Louisiana legislative auditor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:645 (April 1998), amended LR 24:1914 (October 1998).

Chapter 21. Miscellaneous Provisions and Exceptions §2101. Academic Suspension of Awards and Reinstatement

A. Students denied an award for their failure to maintain the required cumulative college grade point average and

academic good standing may be reinstated upon attainment of the required cumulative grade point average and the lifting of academic probation provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

B. Students whose TOPS Performance and Honors Awards are reinstated are ineligible for annual stipends.

C. Transfer of Students on Academic Probation

1. Students who transfer while on academic probation are ineligible for a prior award for a minimum of one semester at the latest institution attended, regardless of the student's status at that institution; and

2. shall remain ineligible until achieving a cumulative grade point average necessary to return to academic good standing at the institution that originally placed the student on academic probation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:646 (April 1998), amended LR 24:1915 (October 1998).

§2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

A. Initial Enrollment Requirement. Initially apply and enroll as a *First-Time Freshman* as defined in §301, unless granted an exception for cause by LASFAC, in an eligible postsecondary institution defined in §1901. Initial enrollment requirements specific to the TOPS are defined in §703A.4.

B. Continuous Enrollment Requirement. To maintain eligibility, all scholarship programs require recipients to continue to enroll as full-time students, as defined in §301, each consecutive semester or quarter, excluding summer sessions and intersession, at two- and four-year colleges and universities. Recipients who cannot meet this requirement may be granted an exception for cause, as determined by LASFAC.

C. Less Than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards and the T.H. Harris Scholarship Program for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or

2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

D. Procedure for Requesting Exceptions to the Initial and Continuous Enrollment Requirement

1. Recipient must submit the exception request form, with documentary evidence, within the deadline specified.

2. If determined eligible for an exception, the recipient will be awarded if he or she enrolls in the first fall, winter or spring term immediately following the exception ending date.

3. If determined ineligible for an exception, subsequent appeals are to be processed in accordance with LASFAC's appeal procedures as defined in §2109.

E. Qualifying Exceptions to the Initial and Continuous Enrollment Requirement

1. Parental Leave

a. Definition. The student/recipient must be pregnant or caring for a newborn or newly-adopted child less than one year of age.

b. Certification Requirements. A completed exception request form, certified by a written statement from a doctor of medicine who is legally authorized to practice or an authorized official of the adoption agency.

c. Acceptable Documentation. Includes dates of required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after the occurrence of the qualifying exception.

e. Maximum Length of Exception. Up to one academic year per child.

2. Rehabilitation Program

a. Definition. The student/recipient must be receiving rehabilitation in a program administered by a licensed rehabilitation center under a written individualized plan with specific dates of beginning and ending services.

b. Certification Requirements. A completed exception request form, certified by a rehabilitation counselor and doctor of medicine.

c. Acceptable Documentation. Includes dates of the required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after occurrence of the qualifying exception.

e. Maximum Length of Exception. Up to two academic years per occurrence.

3. Temporary Disability

a. Definition. The student/recipient must be recovering from an accident, injury, illness or required surgery that did not previously exist when he or she originally applied for the applicable scholarship and grant program(s), or his or her pre-existing condition has substantially deteriorated since the time of application, or the student/recipient's spouse, dependent, parent or guardian requires continuous care for similar conditions for at least 60 days due to an accident, illness, injury or required surgery.

b. Certification Requirements. Certified by a doctor of medicine who is legally authorized to practice and by a completed exception request form.

c. Acceptable Documentation. Includes dates of the required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after occurrence of the qualifying exception.

e. Maximum Length of Exception. Up to two academic years for recipient; up to a maximum of one academic year for care of a disabled dependent, spouse or parent.

4. Internship/Residency Program

a. Definition. The student/recipient must be enrolled in a required program that must be completed in order to begin professional practice or service. It must be a program where the student is working toward an appropriate scholarship and grant program degree. Participation in an Internship/Residency Program does not qualify as an exception to the initial enrollment requirement.

b. Certification Requirements. Certified by a written statement from an internship or residency program official and a completed exception request form.

c. Acceptable Documentation. Includes dates of required leave of absence from the school's dean, academic counselor, or major professor stating that the residency/internship is a requirement toward fulfilling an appropriate scholarship and grant program degree, and that the student has been accepted into the residency/internship program, the semester(s) or number of days involved, the length of the internship/residency period, the beginning and ending dates of the leave of absence.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days of notification of acceptance into the internship.

e. Maximum Length of Exception. Up to two academic years of required program or study.

5. Cooperative Work/Study Program

a. Definition. The student/recipient must be a registered student in the appropriate school offering the cooperative work/study program. Even though the school may have entrance requirements for the cooperative work/study programs, the student/recipient must continue to meet and maintain scholarship and grant program cumulative grade point average requirements. Participation in a Cooperative Work/Study Program does not qualify as an exception to the initial enrollment requirement.

b. Certification Requirements. Certified by a written statement from the college/school official including dates of enrollment and termination and a completed exception request form.

c. Acceptable Documentation. Includes dates of leave of absence from the school's dean, academic counselor, or major professor stating that the student is enrolled in an official cooperative work/study program sponsored by the university, the semester(s) or number of days involved, the beginning and ending dates of the cooperative work/study program.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days of acceptance into the cooperative work/study program.

e. Maximum Length of Exception. Up to one academic year or required program of study.

6. Religious Commitment

a. Definition. The student/recipient must be a member of a religious group that requires the student to perform certain activities or obligations which necessitate taking a leave of absence from school.

b. Certification Requirements. Certified by a written statement from the college official, a completed exception request form, and a statement from the religious group's governing official.

c. Acceptable Documentation. Includes dates of the required leave of absence from the religious group's governing official, a completed exception request form, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of the religious obligation.

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required certification and documentation, within 60 days after accepting or committing to the religious obligation.

e. Maximum Length of Exception. Up to two academic years.

7. Death of Immediate Family Member

a. Definition. The student cannot attend school for at least 30 days due to recovering from the death of a spouse, parent, guardian, dependent, sister or brother or grandparent.

b. Certification Requirements. A written statement from the college official, a completed exception request form, and a copy of the death certificate or a doctor's or funeral director's verifying statement or a copy of the obituary published in the local newspaper.

c. Acceptable Documentation. Includes dates of leave of absence from the school's registrar, a doctor's statement if student/recipient care was needed, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved.

d. Filing Requirements. The student/recipient must file a completed exception request form with certification and documentation requirements within 60 days of the date of death.

e. Maximum Length of Exception. Up to one academic semester or two quarters per death.

8. Military Service, Peace Corps, National Service Corps, VISTA. Service in the Peace Corps, National Service Corps and VISTA does not qualify as an exception to initial enrollment requirement.

a. Definition. The student/recipient is called on active duty status with the United States Armed Forces or is performing emergency state service with the National Guard or is serving in the Peace Corps, National Service Corps or VISTA.

b. Certification Requirements. Certified by a written statement from the commanding officer or regional supervisor or certified military orders and by a completed exception request form.

c. Acceptable Documentation. Includes dates of required leave of absence, the necessity of withdrawing, dropping hours, etc., the semester(s) or number of days involved, the length of duty (beginning and ending dates).

d. Filing Requirements. The student/recipient must file a completed exception request form, with the required

certification and documentation, within 60 days after receipt of military orders or letter of appointment.

e. Maximum Length of Exception. Up to the length of the required service period.

9. Exceptional Circumstances

a. Definition. The student/recipient has exceptional circumstances, other than those listed in §2103.E.1-8, which are beyond his immediate control and which necessitates full or partial withdrawal from, or non-enrollment in, an eligible postsecondary institution.

b. Certification Requirement. Certified by a notarized statement and by a completed exception request form.

c. Acceptable Documentation. The notarized statement should include attachments of copies of all documents relevant to the exceptional circumstance.

d. Filing Requirement. The student/recipient must file a completed exception request form, with the required notarized statement and documentation, within 60 days after the occurrence of the exceptional circumstance.

e. Maximum Length of Exception. Up to one academic year.

E. Nonqualifying Exceptions. Nonqualifying Exceptions include, but are not limited to:

1. the student is unaware of the continuation renewal requirements for a program and fails to meet such requirements;

2. the student failed to timely submit an exception request form for an exception to the continuous enrollment requirement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:647 (April 1998), amended LR 24:1916 (October 1998).

§2105. Repayment Obligation, Deferment and Cancellation

A. Monetary Repayment. Recipients of the Rockefeller State Wildlife Scholarship who do not meet their obligation to obtain a degree in wildlife, forestry or marine science and recipients of the TOPS Teacher Award who do not fulfill their obligation to teach the required number of years and who are not eligible for Discharge by Cancellation, must repay the loan principal plus accrued interest as delineated in §§1111 and 911, respectively.

B. Deferment of Repayment Obligation. Recipients of the Rockefeller State Wildlife Scholarship or TOPS Teacher Award who are in repayment status may have their payments deferred for the following reasons.

1. Parental Leave

a. Definition. The student/recipient must be pregnant or caring for a newborn or newly-adopted child.

b. Certification Requirements. Certification by a written statement from a doctor of medicine who is legally authorized to practice or an authorized official of the adoption agency.

c. Acceptable Documentation. Includes dates of required leave of absence, the number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, and the required treatment.

d. Filing Requirements. The recipient must request by letter, with the required certification and documentation, within 60 days after the occurrence of the qualifying event.

e. Maximum Length of Deferment. Up to one academic year.

2. Rehabilitation Program

a. Definition. The recipient must be receiving rehabilitation in a program administered by a licensed rehabilitation center under a written individualized plan with specific dates of beginning and ending services.

b. Certification Requirements. Certification by a rehabilitation counselor or doctor of medicine.

c. Acceptable Documentation. Includes dates of the required leave of absence, the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The recipient must file a written request, with the required certification and documentation, within 60 days after occurrence of the qualifying treatment.

e. Maximum Length of Deferment. Up to two academic years.

3. Temporary Disability of Recipient, Child, Parent, Spouse, or Guardian

a. Definition. Temporary total disability of recipient or recipient's dependent, parent, guardian or spouse of whom recipient is primary care-giver.

b. Certification Requirements. Certification by a qualified physician.

c. Acceptable Documentation. Includes dates of the required leave, the length of the recovery or disability period, the beginning and ending dates of the doctor's care, the required treatment.

d. Filing Requirements. The recipient must file a written request with the required certification and documentation no earlier than 30 days but within 60 days after the occurrence of disability.

e. Maximum Length of Deferment. A deferment under §2105.B.3 for Temporary Disability of the Maker shall not exceed 36 months. A deferment under §2105.B.3 for Temporary Disability of any other person shall not exceed 12 months.

4. Military Service, Peace Corps, National Service Corps, VISTA

a. Definition. The recipient is called on active duty status with the United States Armed Forces or is performing emergency state service with the National Guard or is serving in the Peace Corps, National Service Corps or VISTA.

b. Certification Requirements. Certified by a written statement from the commanding officer or regional supervisor or certified military orders.

c. Acceptable Documentation. Includes dates of required leave of absence, the semester(s) or number of days involved, the length of duty (beginning and ending dates).

d. Filing Requirements. The student/recipient must file a written request with the required certification and documentation, within 60 days after receipt of military orders or letter of appointment.

e. Maximum Length of Deferment. Up to the length of the required service period.

5. Recipient is engaging in a full-time course of study at an institution of higher education at the baccalaureate level or higher. A deferment under §2105.B.5 shall not exceed 36 months; or

6. Recipient is:

a. seeking and unable to find full-time employment for a single period not to exceed 12 months; or

b. seeking and unable to find full-time teaching employment at a qualifying Louisiana school for a period of time not to exceed 27 months.

C. Cancellation of Repayment Obligation. Upon submission of applicable proof, loans may be canceled for the following reasons:

1. death of the recipient;

2. complete and permanent disability of the recipient which precludes the recipient from gainful employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1918 (October 1998).

§2107. Funding and Fees

A. Limitation of Terms Funded

1. Routine funding for all Scholarship and Grant Programs is limited to the fall, winter and spring school terms.

2. Extensions will be granted for the TOPS Opportunity, Performance, and Honors Awards for an institution's educational programs that require recipients to attend summer sessions to complete the program's mandatory courses when such courses are not offered during regular terms.

B. Fees. The LASFAC may charge a variable fee not to exceed \$10 for each award check processed for recipients of the T.H. Harris Scholarship. This fee will be charged only if the Louisiana Legislature fails to appropriate sufficient state general funds for administration of this program. The LASFAC, at its discretion, may automatically deduct the fee from each T.H. Harris Scholarship award check.

C. Less than Full-Time Attendance. The LASFAC will authorize awards under the TOPS Opportunity, Performance, Honors and Teachers Awards and the T.H. Harris Scholarship Program for less than full-time enrollment provided that the student meets all other eligibility criteria and at least one of the following:

1. requires less than full-time enrollment to complete the undergraduate degree; or

2. is enrolled in a degree program that defines *full-time* as less than 12 hours per semester or eight hours per quarter; or

3. requires less than full-time enrollment to complete requirements for a specified course of study or clinical program.

D. Insufficient Funds Appropriated

1. All LASFAC administered State Scholarship and Grant Program Awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS Opportunity,

Performance, Honors and TECH Awards for a given academic year, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

a. Applicants who do not submit financial data on the FAFSA to allow determination of eligibility for federal aid will be the first students eliminated from consideration if insufficient funds are appropriated for the program.

b. After the elimination of students under §2107.D.2.a, if funds are still insufficient to award all of those students who remain eligible for award year 1998-99, then those students qualified by the actions of the First Extraordinary Session of 1998 shall be funded only after all awards to all students who are eligible pursuant to the requirements of this Chapter as they existed prior to any Act of the 1998 First Extraordinary Session of the Legislature are fully funded. Students qualified by actions of the First Extraordinary Session of 1998 include the following:

i. students qualified by reduction of Foreign Language requirement for 1996-97 and 1997-98 graduates;

ii. students qualified as Exceptional Students/Students with disabilities;

iii. students who graduated from out-of-state high schools; and,

iv. students who completed an Approved Home Study Program.

c. After the elimination of students in §2107.D.2.a and b, if funds are still insufficient to award all of the remaining students, then those who remain will be prioritized according to their ACT score and, within ACT score, by their EFC in ranges of \$1,000, from lowest to highest. Beginning with the lowest qualifying ACT score, the students with the highest EFC shall be eliminated until the funds available are sufficient to award all remaining students or until all students with that ACT score have been eliminated. This process shall be repeated, beginning with the lowest ACT score and progressing to the highest ACT score, until the projected expenditure for awards equals the funds appropriated for that purpose.

d. After the elimination of students in §2107.D.2.a, if funds are sufficient to award all students who were eligible prior to the Act of the 1998 First Extraordinary Session of the Legislature, but are insufficient to award all students made eligible under such Act and listed in §2107.D.2.b, then those students made eligible by such Act shall be rendered ineligible by application of §2107.D.2.c, above, until funds available are sufficient to award all remaining students.

3. From among those students otherwise eligible who are denied an award because of the imposition of the procedures in §2107.D.2, if additional funds subsequently become available for expenditure in the same award year, those students who have the highest ACT scores and the least capacity to pay, as evidenced by their families' lower EFC, shall be the first to be awarded by reversing the procedure described in §2107.D.2.c.

E. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

F. Transferability of Funds. A student receiving an award under the Tuition Opportunity Program for Students (TOPS), Rockefeller State Wildlife Scholarship and/or the T.H. Harris Scholarship may have his award transferred to another postsecondary institution which is authorized to participate in these programs, as described in §1901. The student must meet all continuation requirements and submit a Scholarship and Grant Transfer Request Form.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:649 (April 1998), amended LR 24:1919 (October 1998).

§2109. Appeal of Adverse Discretionary Decisions

A. Policies for Appeal of Adverse Discretionary Decisions

1. The Louisiana Student Financial Assistance Commission (LASFAC or commission) has established a formal appeal process consistent with the Louisiana Administrative Procedure Act by which aggrieved parties may appeal an agency adverse discretionary decision. An agency adverse discretionary decision is a decision made by agency staff based on an interpretation of legislative or regulatory intent and which has an adverse impact on an applicant or participant in a program administered by the commission. An applicant or program participant who believes the agency has incorrectly interpreted legislative or regulatory intent in making a decision and, said decision having adversely affected the applicant or participant, may file an appeal.

2. The appeal process allows for an initial review or hearing to be held by a hearing officer or an appeal committee appointed by the commission, depending upon the level of review requested.

3. If after the decision of the appeal committee or hearing officer the appellant is not satisfied, then he will have the right to seek review of the decision by the full commission.

4. If the commission refuses to review the decision of the hearing officer or the appeal committee, then the aggrieved party has the right to seek a rehearing on the matter by the full commission.

5. If the application for a rehearing is denied, then the aggrieved party has the right to seek judicial review.

B. Procedure for Appeal of Adverse Discretionary Decisions

1. Adverse discretionary decisions made by the Louisiana Office of Student Financial Assistance may be appealed to the Louisiana Student Financial Assistance Commission.

a. Petitions for appeal must be in writing and filed within 30 days of notice of the decision or, if no notice is given within 30 days from becoming aware of or the date the aggrieved party should have been aware of the adverse decision.

b. The appeal must be addressed to the Executive Director, Office of Student Financial Assistance and sent to Box 91202, Baton Rouge, LA 70821-9202, or hand delivered to the physical address of LASFAC in Baton Rouge.

c. Appeals may not be supplemented or amended after the lapse of 30 days. An appellant has the right to file a written appeal or have his appeal heard orally. Requests for an oral

hearing must be made within the 30-day time period to file the appeal.

i. If no request for an oral hearing is made, then the appellant may submit documentation and/or written memorandum to support his appeal at least 15 days prior to the review of the commission or the appeal committee appointed by the commission. Appellant will be notified at least 30 days prior to the date of the review by the commission or the appeal committee appointed by the commission. The commission or the appeal committee will review all the evidence submitted and render a decision.

ii. If the appellant requests an oral hearing, then appellant will be given at least 30 days prior notice of the hearing. The commission shall appoint a hearing officer to hear the appeal of the appellant. All hearings shall be conducted in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

2. If after the review of the appeal committee or after a hearing held before the hearing officer a decision adverse to the appellant is made, then appellant may seek to have the decision reviewed by the full commission.

a. The application for review must be made within 15 days of appellant receiving notice of the decision. The appellant may submit exceptions, written arguments or briefs to support the application for review.

b. No oral hearing shall be held at this level of review. All action is stayed pending review by the full commission.

i. If the full commission denies the application for review, then the action becomes final as of the date of the denial for review.

ii. If the full commission denies the application for review then it shall set a hearing date to review the decision of the hearing officer.

3. The appellant may seek a rehearing of an adverse decision made by the full commission. The request for rehearing must conform to the provisions and time limits set by R.S. 49:959. An application for rehearing does not stay any action taken by the commission.

4. Oral Hearing. All hearings shall be held pursuant to the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

a. On the day of the oral hearing appellant and appellee shall be prepared to start the hearing at the time specified in the notice of hearing.

b. The hearing may be continued for good cause provided a written request for extension is received at the commission at least seven days prior to the date of the hearing.

i. All parties will be notified of a rescheduling or postponement of the hearing.

ii. Failure to be present at the hearing and ready to proceed may result in an adverse decision against the nonappearing party.

iii. Strict rules of evidence will not apply in these hearings. The appellant shall have the following rights at the hearing:

(a) the right to present testimony, introduce evidence, and call witnesses on his behalf;

- (b). the right to cross exam witnesses called by the agency;
- (c). the right to subpoena witnesses;
- (d). the right to take depositions;
- (e). prior to the hearing, the right and the opportunity to review agency records that are relevant to his appeal; and to make copies of those records at a cost of \$.20 per page;
- (f). the right to be represented by counsel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:650 (April 1998), amended LR 24:1920 (October 1998).

§2113. Revision of the Core Curricula

LASFAC shall continually consult with BESE and the Louisiana Board of Regents to evaluate the adequacy of the TOPS core curricula to prepare students for postsecondary studies. Upon receipt of a written recommendation from either BESE or the Board of Regents that the curricula be revised, LASFAC shall draft such revision and submit the proposed revision to BESE and the Board of Regents. BESE and the Board of Regents shall formally act to recommend or reject the proposed change and notify LASFAC, in writing, of their actions. If both boards recommend the proposed change, LASFAC shall promulgate a notice of intent to adopt rule amending the core curricula as recommended. Such revisions of the core curricula shall be limited to updating the names of courses or establishing course equivalencies for any course included in the definition of core curriculum.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 24:1921 (October 1998).

Jack L. Guinn
Executive Director

9810#25

RULE

**Department of Elections and Registration
Office of the Commissioner**

**Elections and Registration Information Network
Registrar of Voters User Manual and Commercial Services
Cost Schedule (LAC 31:II.301)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 18:31, the Department of Elections and Registration hereby adopts the rule detailed below which provides for an Elections and Registration Information Network Registrar of Voters User Manual and commercial services cost schedule.

In the Potpourri section of the July 20, 1998 issue of the *Louisiana Register*, the Department of Elections and Registration announced a public hearing to consider substantive changes to the Notice of Intent which was published in the March 20, 1998 issue of the *Louisiana Register*. As a result of this public hearing and legislative

oversight hearings, the substantive changes have been incorporated into the rule.

**Title 31
ELECTIONS**

Part II. Voter Registration

Chapter 3. Registrar of Voters

**§301. Elections and Registration Information Network
Registrar of Voters User Manual and Commercial
Services Cost Schedule**

A. The commissioner of elections has established a state voter registration computer system for the registration of voters throughout the state.

B. The commissioner of elections shall provide all registrars of voters with an Elections and Registration Information Network Registrar of Voters User Manual to be utilized with respect to the state voter registration computer system. This manual shall establish procedures with respect to all records, data, and information required for the registration of voters and the transfer of information to the department. All registrars of voters shall utilize this manual to insure the proper registration of voters. A uniform cost for the preparation of lists of registered voters shall be included in the user manual. Any updates of the manual provided by the Department of Elections and Registration to the registrars of voters shall be incorporated into the manual by each registrar of voters.

C. The Elections and Registration Information Network Registrar of Voters User Manual shall be submitted to the state attorney general's office for approval. Any updates to the manual shall also receive approval by the state attorney general's office.

D. The Elections and Registration Information Network Registrar of Voters User Manual shall be submitted to the Committee on House and Governmental Affairs and the Senate and Governmental Affairs Committee for their information. Both committees shall be kept informed of any changes to the manual.

E. The commissioner of elections establishes the commercial services cost schedule as follows.

1. Hardcopy Lists

Number of Voters	Cost
1 - 2,000 voters	\$ 50.00
2,001 +	\$ 0.025 x number of voters
(If the total number of voters is less than 2,001, the minimum charge of \$ 50.00 plus delivery applies.) Additional copies of list would cost \$0.005 times the number of voters.	

2. Labels

Number of Voters	Cost
1 - 1,428 voters	\$ 50.00
1,429 +	\$ 0.035 x number of voters
(If the total number of voters is less than 1,429, the minimum charge of \$ 50.00 plus delivery applies.) Additional copies of labels would cost \$0.01 times the number of voters.	

3. Tape
- a. There will be an Up-Front charge of \$150.00 plus a per voter charge as follows:

Number of Voters	Cost
1 - 50,000	\$0.025 x number of voters (max. \$ 1,250)
50,001 - 100,000	\$0.020 x number of voters (max. \$ 1,000)
100,001 - 250,000	\$0.015 x number of voters (max. \$ 2,250)
250,001 - 500,000	\$0.010 x number of voters (max. \$2,500)
500,001 - 1,000,000	\$0.008 x number of voters (max. \$4,000)
1,000,001 - 2,500,000	\$0.005 x number of voters
(An example would be a tape with 250,000 voters and would cost \$150 + \$1,250 + \$1,000+\$2,250 = \$4,650.)	

b. Tape Updates. Four updates may be purchased within one year from the date of the original purchase at a cost of \$0.005 times the number of voters. Selection criteria for the updates must be the same as specified on the original order. A tape update is usually a new copy of all records.

4. Floppy Disk

Number of Voters	Cost
1 - 1,000	\$50.00
1,001 +	\$0.05 x number of voters
(If the total number of voters is less than 1,001, the minimum charge of \$50.00 applies.)	

5. Delivery. The cost for courier service shall be \$5.00 per job.

6. Special Requests. The prices above apply to requests using the standard criteria. A \$50.00 per hour programming charge will be added for any "special request." Registrars of voters must check with Data Processing prior to agreeing to a request that does not conform to the standard criteria.

F. Copies of the Elections and Registration Information Network Registrar of Voters User Manual can be viewed at the Department of Elections and Registration Office, 4888 Constitution Avenue, Baton Rouge, LA or at each office of the registrars of voters throughout the state, or at the Office of the State Register, 1051 North Third Street, Suite 512, Baton Rouge, LA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:18 and R.S. 18:31.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 24:1921 (October 1998).

Jerry M. Fowler
Commissioner

9810#074

RULE

**Department of Elections and Registration
Office of the Commissioner**

**Procurement of Voting Machine Drayage
(LAC 31:III.Chapter 7; repeal of §§737 and 739)**

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority of R.S. 18:1371, the Department of Elections and Registration hereby amends the following rules related to the procurement of voting machine drayage. LAC 31:III.701, 705, 707, 711, 715, 719, 729, 735, 743, and 747 is hereby amended and §§737 and 739 are hereby repealed. Chapter 7 is renamed "Procurement of Voting Machine Drayage" to reflect changes in the content of the Chapter.

In the Potpourri section of the July 20, 1998 issue of the *Louisiana Register*, the Department of Elections and Registration announced a public hearing to consider substantive changes to the Notice of Intent which was published in the March 20, 1998 issue of the *Louisiana Register*. As a result of this public hearing and legislative oversight hearings, the substantive changes have been incorporated into the rule.

**Title 31
ELECTIONS**

Part III. Procurement

Chapter 7. Procurement of Voting Machine Drayage

Subchapter A. General Provisions

§701. Authority and Duties of the Commissioner of Elections

A. The commissioner of elections shall have the authority and responsibility to promulgate rules and regulations governing the procurement, management, and control of all voting machines drayage required and set forth in R.S. 18:1371.

B. The chief procurement officer of the Department of Elections and Registration shall be the commissioner of elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:595 (June 1991), amended LR 24:1922 (October 1998).

§705. Delegation of Signature Authority

A. The commissioner of elections or his designee shall sign all contracts for drayage of voting machines.

B. This delegation of signature authority must be in writing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:595 (June 1991), amended LR 24:1922 (October 1998).

§707. Definition

Drayage—the transporting or cartage of voting equipment as directed by the commissioner of elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:595 (June 1991), amended LR 24:1922 (October 1998).

Subchapter B. Competitive Sealed Bidding

§711. Invitation for Bids, Public Notice, and Bid Opening

A. All contracts for the drayage of voting machines shall be awarded by competitive sealed bidding on a parish or regional basis. If the commissioner of elections determines a bid will be awarded on a regional basis, the criteria shall include but not necessarily be limited to:

1. not more than four parishes in a region;
2. not more than 1,000 voting machines in a region;
3. uniform beginning delivery time with continuous drayage for each parish in a region;
4. uniform beginning return time with continuous drayage for each parish in a region;
5. input will be solicited from each clerk of court affected to be included in a regional bid; and
6. a cost savings when bid on a regional basis.

B. Competitive sealed bidding shall be accomplished by sending out written notices to persons known to be able to provide the department's requirements, and by advertising in accordance with R.S. 18:1371 at least 30 days prior to bid opening.

1. Written notices shall be mailed to those persons who have previously requested an Invitation for Bids for said parish or parishes, if regional, within the previous four years. The written notices shall be mailed to any parish governing authority included in the bid to be let.

2. The written notices and advertisements shall announce:

- a. the type of contract;
- b. the parish or region for which the contract is required;
- c. the method of acquiring an Invitation for Bids; and
- d. the date, time, and place of bid opening.

3. Advertisements shall be published in the state official journal and in the official journal of the parish or parishes, if regional, for which the contract is required. Advertisements shall be published in a newspaper of general circulation printed in such parish or parishes, if regional, or, if there is no newspaper printed in such parish or parishes, if regional, in a newspaper printed in the nearest parish that has a general circulation in the parish or parishes, if regional, covered by the contract.

4. A notice shall be sent to the parish governing authority and the clerk of court of the parish or parishes, if regional, for which the contract is required. The clerk of court shall prominently post such notice in his office.

C. The Invitation for Bids shall contain:

1. complete description of the transportation required;
2. all applicable terms, conditions, and other requirements;
3. types and limits of insurance required;
4. bid and performance bonding requirements; and
5. factors which will be used to determine responsibility of bidders.

D. Bids shall be publicly opened and read as specified in the Invitation for Bids in the presence of one or more witnesses. Bidders and the public may be present at any bid opening.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371 and R.S. 39:1594.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:595 (June 1991), amended LR 19:175 (February 1993), LR 24:1923 (October 1998).

§715. Responsibility of Bidders

A. The commissioner of elections or his designee may make reasonable inquiries to determine the responsibility of prospective contractors. In making his determination, the following factors will be considered:

1. has available the appropriate financial, material, equipment, and personnel resources and expertise, or the ability to obtain them, necessary to indicate the capability to meet all contractual requirements;
2. has a satisfactory record of performance on previous state contracts and with other persons;
3. is qualified legally to contract with the state of Louisiana (Prior to award of any contract, the successful bidder shall affirm by affidavit that he or she and/or the principal officers of a corporation are not currently under any felony conviction.); and
4. has reasonably supplied any information requested by the commissioner of elections in establishing responsibility.

B. Each bidder who is determined to be non-responsible shall be notified in writing. Such notification shall state all reasons for disqualification, and give each bidder who is proposed to be disqualified, a reasonable opportunity to refute the reasons for disqualification at an informal hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1601.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:596 (June 1991), amended LR 24:1923 (October 1998).

§719. Bid Guaranty and Bond

A. If specified in the Invitation for Bids, a bond, certified check, or money order payable to the Department of Elections and Registration in the amount of 5 percent of the bid must accompany each bid submitted.

B. If a bidder withdraws his bid after bid opening, without complying with LAC 31:III.717, or fails to execute a contract within 20 days of request, the bid bond or other security shall be forfeited.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:1371 and LAC 34:I.523.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:596 (June 1991), amended LR 24:1923 (October 1998).

§729. Rejection of Bids; Cancellation of Solicitations

A. The commissioner of elections reserves the right to reject any and all bids when it is in the best interest of the state of Louisiana.

1. Reasons for rejecting a bid include, but are not limited to:

- a. a determination of nonresponsibility has been made against a bidder;

b. the bid is not responsive (i.e., it did not meet specifications or comply with terms and conditions).

2. Reasons for canceling a solicitation include, but are not limited to:

- a. the department no longer requires the service;
- b. bids received exceeded budgeted funds or were unreasonable;
- c. the solicitation was flawed (i.e., specifications were not complete or were ambiguous);
- d. there is reason to believe that the bids received may have been collusive;
- e. there is inadequate competition indicated by low response to the solicitation.

B. When bids are rejected, or a solicitation is canceled, written notices shall be given to the bidders, giving the reasons for the rejection or cancellation.

C. When a solicitation is canceled, where appropriate, bidders will be given the opportunity to bid on the new solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581, R.S. 39:1599, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:597 (June 1991), amended LR 24:1923 (October 1998).

§735. Specifications

All specifications shall be written so as to promote as much competition as possible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1581 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:598 (June 1991), amended LR 24:1924 (October 1998).

§737. Warehouse Specifications

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:21, R.S. 39:1581, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:598 (June 1991), repealed LR 24:1924 (October 1998).

§739. Lease Amendments

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 18:2(B), R.S. 39:1644, and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:598 (June 1991), repealed LR 24:1924 (October 1998).

§743. Right to Protest

A. All proceedings herewith shall be carried out in accordance with the Conduct of Hearing Rules set forth in LAC 34:I.Chapter 31.

B. Any bidder may protest a solicitation or an award of a contract to the commissioner of elections.

C. In regard to the solicitation of a drayage contract, the protest must be made in writing at least two days prior to the opening of bids.

D. In regard to the award of any contract, a written protest must be made within 14 days after the contract is awarded.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1671 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:598 (June 1991), amended LR 24:1924 (October 1998).

§747. Suspension and Debarment

A. A bidder and its principal officers and agents may be debarred or suspended from consideration for award of contracts during an investigation for probable cause if it is in the best interests of the state.

B. The commissioner of elections may suspend or debar a person for cause after notice to the bidder has been given, and the bidder has had a reasonable opportunity to respond. A bidder may be suspended if the commissioner of elections determines that there is probable cause to believe that the bidder has engaged in any activity to lead to debarment.

1. The period of time for the suspension of a drayage contract shall be one complete cycle of bidding in all parishes.

2. The period of time for debarment of a drayage contract shall be two complete cycles of bidding in all parishes.

C.1. Causes for debarment shall be in accordance with R.S. 39:1672(C).

2. In addition to the provisions of R.S. 39:1672(C), the commissioner of elections may debar a bidder for the following reasons:

a. the bidder has withdrawn a bid after an award, for whatever reason, more than once;

b. the commissioner of elections may declare other specific reasons for suspension or debarment which is in the best interests of the state.

D. The commissioner of elections shall notify the debarred or suspended bidder in writing of the decision stating the reasons for the action taken. Such notification shall also inform the debarred or suspended bidder's rights to administrative and judicial review.

E. The decision of the commissioner of elections or his designee shall be final unless:

1. the decision is fraudulent; or

2. the person has appealed to the commissioner of administration in accordance with R.S. 39:1684.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1672 and R.S. 36:662.

HISTORICAL NOTE: Promulgated by the Department of Elections and Registration, Office of the Commissioner, LR 17:599 (June 1991), amended LR 24:1924 (October 1998).

Jerry M. Fowler
Commissioner

9810#073

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

Federal Transportation Conformity
(LAC 33:III.1434)(AQ173)

(Editor's Note: The following Section of a rule published on pages 1683-1686 of the September 20, 1998 Louisiana Register is being repromulgated to include text which was inadvertently omitted.)

**Title 33
ENVIRONMENTAL QUALITY
Part III. Air**

**Chapter 14. Conformity
Subchapter B. Conformity to State or Federal
Implementation Plans of
Transportation Plans, Programs, and
Projects Developed, Funded, or
Approved Under Title 23 U.S.C. or the
Federal Transit Laws**

§1434. Consultation

A. Pursuant to 40 CFR 93.105 interagency consultation (federal, state, and local) shall be undertaken before making conformity determinations and before adopting applicable State Implementation Plan (SIP) revisions.

* * *

[See Prior Text in B]

1. Representatives of the MPOs, DEQ, and the state and local transportation agencies shall collectively undertake an interagency consultation process in accordance with this Section with local or regional representatives of EPA, FHWA, and FTA on the development of the applicable implementation plan, the list of TCMs in the applicable implementation plan, the unified planning work program under title 23 CFR section 450.314, the transportation plan (TP), the TIP, any revisions to the preceding documents, and associated conformity determinations required by this regulation.

* * *

[See Prior Text in B.2-E]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:1278 (November 1994), amended LR 24:1684 (September 1998), repromulgated LR 24:1925 (October 1998).

Gus Von Bodungen
Assistant Secretary

9810#075

RULE

**Department of Environmental Quality
Office of Water Resources
Water Quality Management Division**

Mermentau River Basin Use Attainability
Analysis (LAC 33:IX.1123)(WP029)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Water Quality regulations, LAC 33:IX.1123.C.3 (Log Number WP029).

As part of the Louisiana Water Quality Management Plan the state publishes a list of priority water bodies biennially under Clean Water Act (CWA) section 305(b). In accordance with CWA section 303(d), water bodies are placed on the list of priority water bodies because assessment methodology indicates they do not meet applicable water quality standards. After further review and assessment, some of these water bodies may be prioritized for field work, Use Attainability Analyses (UAAs), and if appropriate, water body modeling for Total Maximum Daily Loads (TMDLs). However, until a UAA is conducted to determine the "attainable" uses and criteria, a TMDL based upon national criteria may be inappropriate for many water bodies. Water bodies which have been classified as the highest priority on Louisiana's 1998 303(d) list include six streams in the Mermentau River Basin:

Bayou Des Cannes—headwaters to Mermentau River, 050101; Bayou Plaquemine Brule—headwaters to Bayou Des Cannes, 050201; Bayou Nezpique—headwaters to Mermentau River, 050301; Mermentau River—origin to Lake Arthur, 050401; Bayou Queue de Tortue—headwaters to Mermentau River, 050501; and Lacassine Bayou—headwaters to Grand Lake, 050601. A UAA has determined that naturally dystrophic waters critical periods for dissolved oxygen (DO) occur in the months of March through November in these six Mermentau River water body segments. However, while these waters bodies may experience naturally occurring seasonal variations in DO, no changes in designated uses are made. The recommended DO criteria are:

December through February	5.0 mg/L; and
March through November	3.0 mg/L.

The UAA presents the required information for a site specific water quality standard revision to the DO standard in accordance with state and federal water quality regulations, policies, and guidance.

The basis and rationale for this rule are to comply with the CWA and achieve the national goal of attaining water quality which provides for the protection and propagation of fish,

shellfish, and wildlife, and provides for recreation in and on the water. Analyses of use attainability are conducted by the department to determine the uses and criteria an individual water body can attain. The UAA process entails the methodical collection of data which is then scientifically analyzed and summarized and used to establish site-specific uses and criteria.

This rule meets the exceptions listed in R.S. 30:2019(D)(3) and R.S.49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

- A—Primary Contact Recreation
- B—Secondary Contact Recreation
- C—Propagation of Fish and Wildlife
- L—Limited Aquatic Life and Wildlife Use
- D—Drinking Water Supply
- E—Oyster Propagation
- F—Agriculture
- G—Outstanding Natural Resource Waters

Title 33
ENVIRONMENTAL QUALITY
Part IX. Water Quality Regulations
Chapter 11. Surface Water Quality Standards
§1123. Numerical Criteria and Designated Uses

* * *

[See Prior Text in A - C.2]

3. Designated Uses. The following are the category definitions of Designated Uses that are used in Table 3 under the subheading "DESIGNATED USES."

Numbers in brackets (e.g. [1])—refer to endnotes listed at the end of the table.

Table 3. Numerical Criteria and Designated Uses									
Code	Stream Description	Designated Uses	Criteria						
			CL	SO ₄	DO	pH	BAC	°C	TDS
	ATCHAFALAYA RIVER BASIN (01)								
* * * [See Prior Text in 010101 - 042209]									
	MERMENTAU RIVER BASIN (05)								
050101	Bayou Des Cannes - Headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260
* * * [See Prior Text in 050102 - 050103]									
050201	Bayou Plaquemine Brule - Headwaters to Bayou Des Cannes	A B C F	90	30	[16]	6.0-8.5	1	32	260
050301	Bayou Nezpique - Headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260
* * * [See Prior Text in 050302 - 050304]									
050401	Mermentau River - Origin to Lake Arthur	A B C F	90	30	[16]	6.0-8.5	1	32	260
* * * [See Prior Text in 050402]									
050501	Bayou Queue de Tortue - Headwaters to Mermentau River	A B C F	90	30	[16]	6.0-8.5	1	32	260
050601	Lacassine Bayou - Headwaters to Grand Lake	A B C F	90	30	[16]	6.0-8.5	1	32	400
* * * [See Prior Text in 050602 - 120806]									

[See Prior Text in [1] through [15]]

ENDNOTES:

* * *

[16] Designated Naturally Dystrophic Waters Segment; Seasonal DO Criteria: 5 mg/L December - February, 3 mg/L March - November.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2074(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 15:738 (September 1989), amended LR 17:264 (March 1991), LR 20:431 (April 1994), LR 20:883 (August 1994), LR 21:683 (July 1995), LR 22:1123 (November 1996), LR 24:1926 (October 1998).

Linda Korn Levy
Assistant Secretary

9810#062

RULE

Firefighters' Pension and Relief Fund City of New Orleans and Vicinity

Election Nominations and Committee; Ballot Procedure;
Board Member Installation; Inquiries and Special Education
(LAC 58:V.1701-1711)

The Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity ("Fund"), pursuant to R.S. 11:3363(F), has adopted rules and regulations regarding the conduct of nominations and election of Trustees to the Board of the Fund from the ranks of eligible active and retired members of the New Orleans Fire Department. These rules regulate the election process conducted pursuant to R.S. 11:3362(A) and (B), by providing safeguards for the secrecy of the ballot and integrity of the system of ballot tabulation.

Title 58

RETIREMENT

Part V. Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity

Chapter 17. Election Rules

§1701. Nominations

A. Election for positions on the Board of Trustees as described in R.S. 11:3362(A)(2) and (3) will be held in the second week of December every two years on odd numbered years. Elected members will be seated on the second Wednesday in January of the following year.

B. Notices for nomination will be carried in monthly Fund minutes, beginning in August of any election year.

C. Nominations for vacant positions will be accepted from eligible members in writing during the second week in November (Monday-Friday, 9 a.m.-4 p.m.) in the Fund office. The Fund office will forthwith notify all nominees of these rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1927 (October 1998).

§1703. Election Committee

All members nominated for the Board will automatically become members of the election committee for the election in which they have been nominated. The committee will serve until the next election is held. On the Wednesday following the close of nominations, the election committee will meet to

review all the rules of the election. The committee can discuss procedures but will not have the authority to change any rules for any election. Any committee member may offer recommendations or rule changes for any subsequent election, which shall be recorded in the minutes of the committee or a special report.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1927 (October 1998).

§1705. Ballot Procedure

A. Ballots with security envelopes and return envelopes will be mailed out on the fourth Monday in November, subject to the following controls.

1. Outgoing postage receipt of total mailing will be kept at the pension office.

2. The listing of all members mailed ballots will be kept at the pension office. Any member may inspect, but not copy, the voter mailing list.

3. The election committee will make available to members with the number of names added to the list after the initial mailing and the number of duplicate ballots mailed to members who did not receive the original ballot.

4. The election committee will account for all ballots (used and unused).

B. All ballots must be returned, signed, no later than 4 p.m. on the second Wednesday in December, subject to the following controls.

1. Ballots will be verified for eligibility by pension office staff daily.

2. The election committee will have authority to check for eligibility prior to counting of ballots.

3. A current account of envelopes returned will be preserved.

4. Ballots will be placed in two secured ballot boxes at the pension office. Separate boxes will be maintained for active and retired members.

5. Each ballot box will be secured with two different locks. The election committee will designate two incumbent members and two non-incumbent member nominees to control the keys to all four locks.

C. The following voting instructions and procedures shall apply.

1. Each member will receive an official ballot with voting instructions.

2. A blank security envelope and a self-addressed stamped envelope addressed to:

Firefighters' Pension and Relief Fund
329 South Dorgenois Street
New Orleans, LA 70119

3. Members must vote for only the specified number of candidates in the appropriate sections. Members may vote for less than the specified number, however, voting in excess of the specified number, in the appropriate section, will spoil the ballot for that section.

4. Members should place their ballot in the security envelope, then seal the envelope. The security envelope should then be placed inside the self-addressed, stamped envelope.

RULE

**Office of the Governor
Office of Elderly Affairs**

Long Term Care Ombudsman
(LAC 4:VII.1229)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) hereby amends §1229 of the GOEA Policy Manual effective October 20, 1998. The purposes of this amendment are to update definitions to conform to current related statutory language; to modify the provisions for designation of local ombudsman entities; to create separate visitation standards for adult residential care facilities and skilled nursing facilities in hospitals and rehabilitation centers; and to modify the on-going training requirements for ombudsmen. This rule complies with Section 701 of the Older Americans Act.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

Subchapter D. Service Provider Responsibilities

**§1229. Office of the State Long Term Care
Ombudsman**

A. - B.1. ...

2. a nursing facility as defined in Section 1919(a) of the Social Security Act;

3. a nursing home as defined in Section 1098(3) of the Social Security Act;

4. any nursing home or adult residential care home licensed by the state or required to be licensed by the state under the terms of R.S. 40:2009.12, and R.S. 40:2151-2163.

C.1. - 4. ...

5. to provide information to public agencies, legislators, the general public, the media and others, as deemed necessary and feasible by the Office, regarding the problems and concerns, including recommendations related to such problems and concerns, of older individuals residing in long-term care facilities;

C.6. ...

7. to coordinate ombudsman services with the protection and advocacy systems for individuals with disabilities established under part A of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001 et seq.), under the Protection and Advocacy of Mentally Ill Individuals Act of 1986 (42 U.S.C.10801 et seq.); and under the Protection and Advocacy of Individual Rights (29 U.S.C. 794(e)); and

8. to include any area or local ombudsman entity designated by the State Long Term Care Ombudsman.

D.1. - D.2.a.vii. ...

b. The State Ombudsman shall designate each local ombudsman entity. Any representative (as defined in R.S. 40:2010.1) of an entity so designated (whether an employee

5. Members must sign the self-addressed envelope in the upper left corner in the space provided. A member's signature shall serve as proof of eligibility. Any envelopes not signed will be rejected.

6. All ballots must be returned signed, to the fund office, no later than 4 p.m. on the second Wednesday in December.

D. All ballots will be counted at the Fund Office at 9 a.m. on the Thursday following the deadline for ballots to be returned, subject to the following conditions.

1. The election committee shall report to the pension office no later than 8:30 a.m.

2. The election committee is to oversee the counting of ballots.

3. The election committee is responsible for accuracy of votes counted.

E. Envelopes and ballots will be maintained and preserved at the pension office for three months following any election.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1927 (October 1998).

§1707. Installation of Elected Members

Newly elected board members will be seated at the meeting held on the second Wednesday in January of the following year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1928 (October 1998).

§1709. Election Inquiries

A. Any questions from members regarding the election should be directed to the election committee, in writing, addressed care of the Fund Secretary-Treasurer.

B. The election committee may propose comments, suggestions and recommendations on any changes for the next election to be held following the election under its supervision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1928 (October 1998).

§1711. Special Elections

Special elections must be called within 30 days of any vacancy on the board, caused by death, resignation or otherwise. The foregoing rules for regular elections shall apply to all special elections.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:3362 and 3363.

HISTORICAL NOTE: Promulgated by the Board of Trustees of the Firefighters' Pension and Relief Fund for the City of New Orleans and Vicinity, LR 24:1928 (October 1998).

Richard Hampton
Secretary-Treasurer

9810#001

or an unpaid volunteer) shall be treated as a representative of the Office for purposes of this Section.

D.2.c.i. ...

ii. submit for approval by the State Long Term Care Ombudsman a written plan of visitation which provides for regular visitation to each facility in the service area by program personnel. Every facility must be visited by a certified ombudsman at least once per month, except that skilled nursing facilities located in hospitals and rehabilitations centers not otherwise licensed as long-term care facilities must be visited a minimum of once every six months and adult residential care homes must be visited at least quarterly unless conditions warrant more frequent visitation. The plan of visitation shall be incorporated into the contract with GOEA.

C.2.c.iii. - E.2.a.i. ...

ii. college credit may be substituted for the service requirement at the discretion of the State Ombudsman.

E.2.b.i. - v. ...

vi. to visit in each long term care facility within the service area at least once a year;

E.2.b.vii. - E.3.a.i. ...

ii. comparable experience may be substituted for the educational requirement at the discretion of the State Ombudsman.

E.3.b.i. - 4.b.vi. ...

vii. to attend at least six hours of training a year on topics related to nursing homes, aging, managed care and the ombudsman program.

F.1. - 2.a. ...

b. The ombudsman shall be assigned to a long term care facility(ies) by the State Ombudsman after consultation with the ombudsman, and the ombudsman coordinator. The administrator of the long term care facility where the ombudsman is assigned shall be so informed by the State Ombudsman.

F.2.c. ...

3. Training

a. Individuals shall be certified as ombudsmen upon successful completion of the ombudsman certification training program. The training program consists of four components: an orientation program, a twenty-six hour training program, an examination, and an internship in a long term care facility. The State Ombudsman or his designee shall conduct the certification program. Trainees must meet the minimum personnel qualifications specified in §1229.E.3.a.

F.3.b.i. - x. ...

xi. ombudsman policies and procedures;

xii. investigative techniques; and

xiii. managed care.

c. Certification must be renewed annually. Renewal is based on successful completion of at least fifteen (15) contact hours of in-service training each year and on adherence to ombudsman policies and procedures. At least six (6) hours of this training must be sponsored by the Office. The remainder may be earned by attending any relevant training, subject to the conditions described below. If requirements for

the current year have been met, hours earned during the final quarter of a calendar year may be carried over to the following year.

F.3.d. - 4.c. ...

d. Each trainee may take the examination no more than three times, without repeating the classroom component of the training. All attempts must be made within one year of the completion of the classroom component of the training. The recommendation of the Coordinator and the permission of the State Ombudsman are required before a trainee can repeat the classroom component.

F.5. - H.1. ...

2. Records. Records may be reviewed only with the written consent of the resident or the resident's legal representative. The ombudsman may review those portions of a resident's records which are relevant to resolving a specific problem. If a resident is unable to consent to such review and has no legal representative, the ombudsman shall have access to the resident's medical and social records.

I. - L.2.b.iv. ...

c. Complaints about a Coordinator

i. Complaints about a Coordinator should be directed to the State Ombudsman. Upon receipt of a complaint, the State Ombudsman shall notify the Coordinator and his/her immediate supervisor of the complaint; conduct an investigation to determine whether the complaint is valid; advise the following persons of the findings: the complainant, the Coordinator, and the director and/or other supervisory staff of the local designated ombudsman entity; and take appropriate action to remedy the situation.

ii. If the State Ombudsman fails to respond to or act upon a complaint within 30 days, the person filing the complaint may refer the complaint to the director of the Office of Elderly Affairs.

L.2.d. - 3.c.iv. ...

d. Grievances against a Coordinator. Grievances against a Coordinator must be submitted to the State Ombudsman. Upon receipt of the grievance, the State Ombudsman shall submit a copy of the grievance to the Coordinator and his/her immediate supervisor; request that the Coordinator submit a written response within 10 working days; inform the Coordinator and the complainant of the date by which a decision shall be issued; investigate the allegation stated in the grievance; consider the relief sought by the complainant; and issue a written decision.

L.3.e. - 6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:2010.4 and OAA Section 712(a)(5)(D).

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:35 (January 1985), LR 11:1078 (November 1985), LR 13:742 (December 1987), LR 15:379 (May 1989), LR 17:600 (June 1991), LR 18:267 (March 1992), LR 24:1928 (October 1998).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9810#003

RULE

Office of the Governor Office of Elderly Affairs

Title III-C Nutrition Services (LAC 4:VII.1223)

In accordance with Revised Statutes 49:950 et seq., the Administrative Procedure Act, the Governor's Office of Elderly Affairs (GOEA) hereby amends §1223 of the GOEA Policy Manual effective October 20, 1998. This rule redefines: the services that can be funded under Title III-C of the Older Americans Act; participant eligibility requirements; criteria for United States Department of Agriculture (USDA) support; minimum standards for service delivery; the time frame for reassessment of need for home delivered meals; packaging requirements for home delivered meals; menu standards; and mandatory menu patterns. The proposed changes are intended to improve the efficiency of program operations. This rule complies with Sections 307, 313 and 336 of the Older Americans Act.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 11. Elderly Affairs

§1223. Title III-C Nutrition Services

A. Definitions of Nutrition Services

1. Congregate Meals. A congregate meal is a meal provided at an Older Americans Act (OAA) Title III-C Program "nutrition site" as described in Subsection F.2 of this Section. Congregate meals shall provide a minimum of one-third of the 1989 Recommended Dietary Allowance RDAs for men over 51 years or Adequate Intake (AI) for men ages either 50 to 70 years of age or 70, whichever is the higher requirement, as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council. Congregate meals may be hot, cold, or a combination of both. Congregate meals must be provided at least once a day, five or more days per week, no less than 250 days per year (except in sites located in rural areas where such frequency is not feasible and a lesser frequency is approved by the State Agency).

2. Home-Delivered Meals. A home-delivered meal is a meal served in the home to an individual who meets the criteria in Subsection B.2.a of this Section. Home delivered meals shall provide a minimum of one-third of the 1989 Recommended Dietary Allowances (RDAs) for men over 51 years or Adequate Intake (AI) for men ages either 50 to 70 years of age or 70, whichever is the higher requirement as established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council. Home delivered meals may consist of hot, cold, frozen, dried, canned, or medical foods. Home-delivered meals shall be available to participants five or more days per week, no less than 250 days per year (except in rural areas where such frequency is not feasible and a lesser frequency is approved by the State Agency).

3. Nutrition Education. Nutrition Education is a

program to promote better health by providing accurate and culturally sensitive nutrition, physical fitness, or health (as it relates to nutrition) information and instruction to participants or participants and care givers in a group or individual setting overseen by a dietitian or individual of comparable expertise.

4. Outreach. The term "outreach" is defined as an intervention initiated by an agency or organization for the purpose of identifying potential clients and encouraging their use of existing services and benefits.

B. Participant Eligibility

1. Congregate Nutrition Services

a. Eligible participants include:

i. persons aged 60 or older, and their spouses, regardless of age. Preference must be given to clients who are economically and/or socially needy;

ii. handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided;

b. - c. ...

d. each area agency shall establish procedures that will allow nutrition services providers the option to offer a meal, on the same basis as meals are provided to participants, to individuals providing volunteer services during the meal hours, and to individuals who reside at home with and accompany disabled older individuals who are eligible Title III participants.

2. Home-Delivered Nutrition Services

a. Eligible participants include:

i. ...

ii. individuals with disabilities who reside at home with the recipient if receipt of the meal is deemed in the best interest of the homebound older person; and

iii. ...

b. Each area agency must establish procedures for nutrition projects to ensure that participants receiving home-delivered meals shall be selected and prioritized using GOEA's Uniform Intake and Assessment Instrument. The minimum criteria for determination of need are that the participant must be unable to leave home without assistance and have no one available to provide assistance in the preparation and consumption of a meal. Preference must be given to clients who are economically and/or socially needy. However, no criteria that disqualifies an eligible participant from receiving nutrition services shall be established.

C. USDA Entitlement

1. The United States Department of Agriculture (USDA) provides USDA food, cash, or a combination of food and cash for nutrition services providers. The Governor's Office of Elderly Affairs will distribute cash received from USDA to area agencies for nutrition services based on each agency's proportion of the total number of eligible meals served in the state. The Louisiana Department of Agriculture contracts directly with the nutrition services provider for the distribution of USDA food.

2. A meal served in Title III-C programs is eligible for USDA support, regardless of the funding source, if it meets the following three criteria.

a. The meal served provides a minimum of one-third

of the 1989 Recommended Dietary Allowance (RDAs) established by the Food and Nutrition Board of the National Academy of Sciences-National Research Council.

b. The meal is served to an individual who is eligible for a meal as specified in Subsection B of this Section.

c. ...

2. Area Agencies must spend USDA cash for buying only United States agricultural commodities and food.

3. The requirements of 7 CFR Part 250 for participation in the USDA program govern all USDA commodity transactions for the elderly nutrition program. The nutrition services provider must establish procedures for any USDA food made available and must assure appropriate and cost effective arrangements for the transportation, storage and use of the food. The Area Agency on Aging should require the inclusion of USDA regulatory mandates in contracts/grants with Title III-C providers and subcontractors.

D. Selection of Nutrition Services Providers. An area agency may make awards for congregate and home-delivered nutrition services to a provider that furnishes either or both type(s) of service.

a. Nutrition Services Providers. The area agency must award funds for the provision of nutrition services through a competitive process in compliance with guidelines established by the Governor's Office of Elderly Affairs.

b. Home-Delivered Meals Providers. To the extent feasible, in making awards for home-delivered meals, an area agency must give preference to public, private nonprofit, and voluntary organizations which:

i. have demonstrated an ability to provide home-delivered meals efficiently and reasonably; and

ii. have furnished assurances to maintain efforts to solicit voluntary support and not to use the funds received under this part to take the place of funds from non-federal sources.

E. ...

F. Minimum Standards

1. The area agency shall assure that each nutrition service provider employs mechanisms to insure sound financial management. The area agency must develop a policy which assures that each congregate nutrition provider shall:

a. - b. ...

c. serve an average of at least 20 meals per day at each congregate site or a number that is determined to be cost effective and a lesser number is approved by the State Agency;

d. serve meals at least five days per week, no less than 250 days per year (except in sites located in rural areas where such frequency is not feasible and a lesser frequency is approved by the State Agency);

e. make special provisions as necessary for the service of meals to eligible handicapped individuals;

f. provide meals during emergencies where feasible in accordance with menus approved annually by GOEA;

g. post emergency procedures, (e.g., fire, storms, etc.);

h. have available to the public a copy of written policy for determining who is eligible to receive home-delivered meals; and

i. ...

2. Nutrition sites shall be located in as close proximity to the majority of eligible individuals' residences as feasible, with particular attention upon multipurpose senior centers, schools, churches, or other appropriate community facilities, preferably within walking distance where possible, and where appropriate, transportation to such sites is furnished. Emphasis shall be placed on locating sites in areas having high concentrations of economic or social needy older individuals.

3. The area agency must develop procedures that will assure a quarterly inspection of each nutrition site by appropriate staff.

4. ...

5. The area agency shall assess all Title III-C Nutrition Program participants using GOEA's Uniform Intake and Assessment Instrument for all nutrition participants. At a minimum, each client's record should include: the participant's name, address, telephone number, date of birth, sex, and emergency information.

6. - 7. ...

8. Exceptions to the assurances in Paragraph 1 of this Subsection must be approved in writing by the Governor's Office of Elderly Affairs.

G. ...

H. Reassessment for Home Delivered Meals. Each home-delivered meals provider must reassess the need for home-delivered meals and other nutrition services in accordance with GOEA uniform intake and assessment procedures.

I. ...

J. Food Stamp Program. Nutrition services providers must assist participants in taking advantage of benefits available to them under the food stamp program. Nutrition services providers must coordinate their activities with agencies responsible for administering the food stamp program to facilitate participation of eligible older persons in the program.

K. - M.3. ...

4. Cold and hot food must be packaged and packed separately. Divided containers must be used for hot food. Appropriate individual containers with tight fitting lids must be used for all cold food. "Sandwich" type bags which can be sealed may be used for bread. Bread must not be placed on top of other food. All food delivery equipment and carriers must be sanitized daily.

N. - P. ...

Q. Menu Standards

1. Menus prepared for the nutrition program must:

a. be accompanied by nutrient calculations using computer software based on *Bowes and Church's Food Values of Portions Commonly Used, USDA Handbook Number 8*, or other appropriate nutrient data base;

b. be certified in writing by the licensed dietitian/nutritionist whose services are utilized by the provider as providing one-third of the current Recommended Dietary Allowances (RDAs) for men over 51 years or Adequate Intake (AI) for men ages either 50 to 70 years of age or 70, whichever is the higher requirement;

c. incorporate the dietary guidelines of the U.S. Department of Agriculture.

i. The total fat content, based on total calories, must not exceed 35 percent of the meal. The sodium content of the meal must fall within the range of a "NO ADDED SALT" diet (no more than 1,000-1,300 milligrams of sodium per meal). High fiber foods should be included in meals.

ii. Sodium and fat restrictions may be waived for emergency meals only.

d. - h. ...

2. Service providers shall use the following menu pattern.

a. Meat or Meat Alternate Group. A serving shall consist of three ounces of cooked, edible meat, fish or fowl; eggs; or cheese. Meat alternates such as cooked dried beans are encouraged in order to increase fiber and lower fat content of meals. (One-fourth cup of cooked beans or peas is equivalent to 1 ounce of the meat requirement).

b. Vegetable and Fruit Group. Two one-half cup servings shall be provided. This shall include all vegetable juices, all fruits, and all full strength fruit juices. Fruit used as a dessert should not be counted toward the suggested two servings of vegetables and fruits. A minimum of 4 high fiber selections per week shall be provided, for example: fruits and vegetables, peas, beans, tossed salads, etc.

c. Bread or Bread Alternate Group. One serving shall be provided of enriched or whole-grain bread, biscuits, muffins, rolls, sandwich buns, cornbread, or other hot breads. Bread alternates may include enriched or whole-grain cereals or cereal products, such as spaghetti, macaroni, rice, dumplings, pancakes, and waffles.

d. ...

e. Milk Group. One-half pint of 2 percent, 1 percent or ½ percent milk shall be provided. Coffee, tea, decaffeinated beverages, soft drinks and fruit flavored drinks may be served but cannot be used to substitute for the milk requirement.

3. Vitamins and/or mineral supplements shall not be provided with nutrition services funds.

R. Use of Nutrition Contributions. Nutrition services providers shall use all contributions to increase the number of meals served by the provider, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services.

AUTHORITY NOTE: Promulgated in accordance with OAA 307(a)(13), 331, and 336.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 10:464 (June 1984), amended LR 11:1078 (November 1985), LR 15:384 (May 1989), LR 16:505 (June 1990), LR 24:1930 (October 1998).

P.F. "Pete" Arceneaux, Jr.
Executive Director

9810#005

RULE

Department of Health and Hospitals Board of Veterinary Medicine

Livestock Management Practices and Prescriptions
(LAC 46:LXXXV.700, 705, and 707)

The Louisiana Board of Veterinary Medicine hereby amends LAC 46:LXXXV. 700, 705, and 707 in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and the Louisiana Veterinary Practice Act, R.S. 37:1518 et seq.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part LXXXV. Veterinarians

Chapter 7. Veterinary Practice

§700. Definitions

Alternative Livestock—animals that have not been domesticated, but are bred or kept on a farm for use or commercial profit.

* * *

Cosmetic Surgery—that branch of veterinary medicine that deals with surgical procedures designed to improve the animal's appearance.

* * *

Livestock—domestic animals to include only cattle, hogs, sheep, and goats, bred or kept on a farm for use or commercial profit.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 19:1328 (October 1993), amended LR 20:1381 (December 1994), LR 24:941 (May 1998), LR 24:1932 (October 1998).

§705. Prescribing and Dispensing Drugs

A. - F. ...

G. Providing Prescriptions

1. A client is not obligated to purchase a prescription medication from the prescribing veterinarian. Therefore, when a veterinarian-client-patient relationship exists and a veterinarian has determined that a prescription medication will be used in a patient's treatment or preventive health plan, it shall be considered a violation of the rules of professional conduct, within the meaning of R.S. 37:1526(14), for a veterinarian to refuse to provide a written prescription to the client so long as the following conditions exist:

a. the veterinarian has determined that the patient's life is not endangered without the immediate administration of the prescription medication, and

RULE

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Office of Public Health**

State Health Care Data Clearinghouse
(LAC 48:V.Chapter 151)

b. in the veterinarian’s medical opinion, the prescribed substance is medically safe for in-home administration by the client.

2. A veterinarian shall not be required under §705 to write a prescription for controlled substances or a prescription for any medication that, in the veterinarian’s medical judgment, is not appropriate for the patient’s medical care.

3. A veterinarian may refuse to write a prescription under §705 if it is not directly requested by a client with whom a veterinarian-patient-client relationship exists.

4. A written prescription can be construed to include any manner of authorization for filling a prescription, including verbal or electronic communication.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 6:71 (February 1980), amended LR 16:226 (March 1990), LR 19:1329 (October 1993), LR 20:1381 (December 1994), LR 23:1686 (December 1997), LR 24:1932 (October 1998).

§707. Accepted Livestock Management Practices

A. The following are hereby declared to be accepted livestock management practices as provided by R.S. 37:1514(3):

1. the practice of artificial insemination (A.I.) and the non-surgical impregnation (with frozen embryo) of livestock to include that performed for a customer service fee or that performed on individually-owned livestock;

2. the procedure involving the collection, processing, and freezing of semen from privately owned livestock carried out by NAAB-CSS approved artificial insemination business organizations;

3. ...

4. performing the operation of male castration, docking, or ear-marking of livestock raised for human consumption;

5. performing the normal procedure of dehorning livestock, with the exception of surgical cosmetic dehorning, which is defined as the practice of veterinary medicine;

6. ...

7. treating livestock for disease prevention with a non-prescription medicine or vaccine;

8. branding and/or tattooing for identification of livestock;

9. - 10. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1518 et seq.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Board of Veterinary Medicine, LR 9:213 (April 1983), amended LR 23:969 (August 1997), LR 24:1933 (October 1998).

Charles B. Mann
Executive Director

9810#010

Under the authority of LSA R.S. 40:1300.112(D) and in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., as amended, the Department of Health and Hospitals, Office of Public Health amends LAC 48:V governing the practice of Preventive Health Services to add Subpart 53, entitled State Center for Health Statistics, and Chapter 151, entitled State Health Care Data Clearinghouse. This rulemaking provides procedures and guidelines for the reporting of hospital discharge data and the protection of the confidentiality of certain data elements in order to better understand patterns and trends in the availability, use and charges of health care services, and the underlying patterns of disease which necessitate these services in the state.

Title 48

PUBLIC HEALTH—GENERAL

Part V. Preventive Health Services

Subpart 53. State Center for Health Statistics

Chapter 151. State Health Care Data Clearinghouse

§15101. Purpose

Louisiana R.S. 40:1300.111 et seq. established a “state health care data clearinghouse” in the Office of Public Health with responsibility for the collection and dissemination of health care data. The legislative action was based upon a finding that as a consequence of rising health care costs, a shortage of health care professionals and health services in many areas of the state, and the concerns expressed by health care providers, consumers, third party payors, and others involved with planning for the provision of health care, there is a need to understand patterns and trends in the availability, use, and charges for these services and the underlying patterns of disease which result in these services. The statute requires that state agencies and licensed health care providers shall provide the information necessary to carry out the purpose of this law. In accordance with the statute, the collection of hospital discharge data is to be accomplished in collaboration with representatives from hospitals, health care providers, payors, data users and other state agencies. It is the purpose of these regulations to provide directions for the required collection, submittal, management and dissemination of health data and to provide for the confidentiality of the data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1933 (October 1998).

§15103. Definitions

A. For the purposes of these regulations, the following words and phrases, when used herein, shall be construed as listed below.

Act—the Act 622 of the 1997 Regular Legislative Session, LA R.S. 40: 1300.111 et seq.

Aggregate Data Set—an array of counts of patient level records, or of totals of patient level record quantities (example: Total Charges), classified by data categories (example: “year of discharge”). Aggregate data sets may be used to present health data usefully, yet in a manner which can minimize potential for identification of confidential information, since they can be assured to have any necessary minimum cell size. Aggregate data sets shall not include the following information:

- a. facility identifiers;
- b. patient or insured identifiers;
- c. physician or other health care service provider identifiers;
- d. payor identifiers;
- e. employer identifiers.

Confidential Information—that information defined as confidential in this rule including, but not limited to:

- a. employer identifiers, facility identifiers, patient or insured identifiers, payor identifiers, or physician or other service provider identifiers;
- b. information identified by the identifiers;
- c. combinations of data categories derived from part or all of the hospital discharge database information that would identify or tend to identify an employer, facility, patient or insured person, payor, or physician or other service provider; and
- d. information identified by combinations of these data categories.

Data Base—a structured repository of data, consisting of one or more related structured data tables.

Data Category—one of the typically (though not necessarily) non-unique data values of a data element, or to equivalent labels for these values. For example, the data categories of the data element years may be three in number: “98,” “99,” and “00,” and may be labeled “1998,” “1999,” and “2000,” whereas the data categories of the data element patient birth date may have thousands of possible values, some of which are probably uniquely associated with exactly one person.

Data Element—a logical field of a data record or a column of a data table, and includes both the named data elements in this rule, and any other data elements obtained or created by analytic or synthetic methods. Examples: discharge year, age group, sex, or disease group.

Data Record—the row of a data table, or the set of related rows from related tables in a database.

Data Set—a structured subset of data from a database.

Department—the Louisiana Department of Health and Hospitals.

Employer Identifier—employer name, employer location/address excluding the first three digits of the ZIP code, or other information that identifies an employer.

Facility Identifier—provider name, provider telephone number, provider FAX number, federal tax number or EIN, federal tax sub ID, Medicare provider number, national provider identifier, mailing address excluding the first three digits of the ZIP code, or other information that identifies a facility.

Guide—the Hospital Discharge Data Submittal Guide included in §§15113-15129 of this rule.

Health Research—the study of patterns or trends in health or health care.

Hospital—any institution, place, building or agency, public or private, whether organized for profit or not-for-profit, which is subject to licensure as a hospital by the Louisiana Department of Health and Hospitals.

Hospital Discharge Information—all billing, medical, and personal information describing a patient, the services received, and charges billed, associated with a single inpatient hospital stay, including all elements of the Uniform Billing form, UB-92.

Hospital Discharge (Data) Record—the structured document, in paper or electronic form, of all the UB 92 data for a single hospital stay, or the data content of that document. This often will include more than one data record.

Hospital Stay or Inpatient Hospital Stay—the period, activities, events, and conditions associated with a patient, from the time of admission to a hospital, to the time of discharge from that hospital. Facilities licensed as hospitals and having different provider numbers are, for the purpose of this definition, distinct hospitals having discrete hospital stays and hospital discharges.

Intermediary—a data processing agent of a hospital, who is contracted or employed by that hospital to relay their Hospital Discharge Records to OPH in compliance with these rules.

Office, also *OPH*—the Louisiana Office of Public Health;

Panel or Research Panel—the Hospital Discharge Data Research Panel as described in §15007 of this rule.

Patient or Insured Identifier—patient name, insured’s name, patient address or insured’s address (specifically including P.O. Box or street address, but not city, 5-digit ZIP Code, or state), patient control number, SSN, medical record number, health insurance claim identification number, or information that would identify or tend to identify an individual patient or insured person under whom the patient may be covered.

Patient Level Data—the non-aggregate, one logical record per discharge, form of data submitted by hospitals which includes part or all of the submitted data elements or recoded data derived from submitted data elements. This term refers to both the *raw* patient level data still in the form in which it is submitted, and the *cleaned* patient level data which may have had error checking or *edits* applied or which may have been separated into the specifically named patient or insured identifier data elements and the remaining data elements. Patient level data may include all or part of the hospital discharge data record.

Payor Identifier—the payor name, payor identification, insured group name, insurance group number, or other information that identifies a payor.

Physician and Other Service Provider Identifier—attending physician name, attending physician number, operating physician name, operating physician number, other physician name, other physician number, or other information that identifies a physician or other service provider.

Publish—to make any hospital discharge information available in paper or electronic form to person(s) who are not:

- a. part of the research group authorized to use that information by the research panel as described in §15109; or
- b. OPH staff authorized to use that information.

Release—a conditional distribution of hospital discharge information for purposes authorized by this rule.

Secure Information—that information which is not subject to release by OPH or the research panel, and will not be released for any purpose. Secure information includes patient and insured identifiers.

Submit—(with respect to a submission date, and data, reports, surveys, statements or documents required to be submitted to the Louisiana Office of Public Health) to deliver, or to cause to be delivered, to the Office of Public Health, in the form and format specified, by the close of business on the prescribed date.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 2419340 (October 1998).

§15105. Confidentiality

A. Act 622 of 1997 provides for the strictest confidentiality of data and severe penalties for violation of the Act. After editing and compilation of data submitted under this rule, the Office of Public Health shall separate all secure information from the rest of the file. Redundant methods shall be employed to assure physical security, media security, transmission security, logical security, secure authorized access, and backup of all secure or confidential information. The collection, editing, compilation, storage, analysis and dissemination of reports or data shall be done in a manner that protects publication of information that identifies or tends to identify an individual patient.

B. Patient level data and the individual forms, computer tapes, or other forms of data collected by and furnished for the State Health Care Data Clearinghouse shall not be available for public inspection. In accordance with R.S. 40:1300.111D, any data that can be used to identify any individual patient shall not be subject to discovery in civil or criminal proceedings.

C. Data may be used as described in §§15107 and 15109 below.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1935 (October 1998).

§15107. Use of Hospital Discharge Records by OPH

A. Patient level data (raw or cleaned) may be released by OPH to the data provider that submitted that particular data.

B. The office may use patient level data in fulfilling its public health mission. The office will establish procedures for secure use of the data by OPH staff.

C. The office may release patient level data (excluding secure information) for use in health research, public education, administrative and health industry research in accordance with the provisions of §15109 of this rule (approval of the Hospital Discharge Data Research Panel). In consideration of the existing information industry in Louisiana, and to assure a measure of completeness and quality of this data during the initial years of the implementation, this data will not be released during the first 12 months following discharge. Starting with year 2000 discharges, the minimum delay observed will decrease by one month per year (a discharge 1/1/2000 may be released 12/1/2000), until 2010, when a minimum delay will no longer be observed.

D. Aggregate Information

1. The office may develop and publish aggregate data reports and aggregate data as resources permit that do not disclose *confidential information* as defined in §15103 of this rule. The aggregate data reports and aggregate data shall be public information and may be distributed electronically.

2. The office may also release aggregate data on request, as resources permit. Such data may be released when it does not disclose confidential information, as defined in §15103 of this rule. The data request should be made to the director of the Division of Health Information, DHH-OPH and must include:

- a. rationale for the study or data use;
- b. a summary of the research plan, including a definition of, and justification for the particular fields and records necessary for the research;
- c. signed agreement for use of data affirming that data will be used only for the purpose stated in the request, and that no attempts will be made to combine data provided for this request with other data provided from a previous request or another source, or attempt to identify confidential information;
- d. affirmation that a copy of any publication resulting from the use of the records shall be provided to the director of the Division of Health Information;
- e. a signed agreement to indemnify and hold the state, DHH, and OPH, its employees, and the original providers of the patient level data harmless from any liability arising out of the authorized or unauthorized use of the data.

E. OPH Reports Containing Identifiers

1. The office may apply to the Hospital Discharge Data Research Panel (§15109 of this rule) for approval for publication of health care data reports with employer, facility, payor and/or physician and/or other healthcare provider identifiers. The application shall state the purpose of the report and a justification for releasing it with identifiers. If the panel approves the request, a copy of the report(s) shall be provided to all panel members at least one full working day prior to release for publication.

2. The criteria for approval by the panel shall include, but are not limited to:

- a. the report content and design reflect that the proposal is in the best interest of the public health;
- b. the report reflects the use of accepted methods of data analysis;

c. the investigators/researchers are deemed qualified based on their past research, employment and education;

d. provisions to protect the confidentiality of the patient identifiers comply with §15109.B.2.

3. Panel action on office proposals to publish employer, facility, payor, physician or other healthcare provider specific reports shall be in accordance with §15109.B of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1935 (October 1998).

§15109. Use of Hospital Discharge Records in Research

Any person may apply to the office to conduct research for health surveillance, public education, administrative, or health industry purposes using patient level data. Non-aggregate data (patient level data) shall be disclosed only when the Hospital Discharge Data Research Panel has deemed that it would be impractical to perform the research with aggregate data. Only the fields and records necessary for the proposed study will be released.

1. Panel. Pursuant to R.S. 40:1300.112.B(1) and D., the Hospital Discharge Data Research Panel is established. It shall operate in accordance with the following guidelines.

a. Membership. The panel shall be composed of at least 15 members with varying background and expertise, to promote complete and adequate review of research activities commonly conducted using hospital discharge data.

i. The panel membership shall reflect sufficient experience and expertise with hospital data and/or data analysis, sensitivity to cultural diversity and privacy issues, and the professional competence necessary to review research proposals in terms of institutional commitments and regulations, applicable law, and standards of professional conduct and practice.

ii. The panel shall include the following representatives of the Office of Public Health:

(a). the state health officer or programmatic designee;

(b). the director of the Division of Health Information; and

(c). the State Registrar of Vital Records. The state health officer or his designee shall chair the panel.

iii. The state health officer shall appoint 12 additional panel members representing groups and organizations that have knowledge and expertise in fields related to research using health care data. Accordingly, the appointees will include a representative of health care consumers, a representative of payors, private hospital representation, and members of the following organizations:

(a). Louisiana Health Care Review Inc.;

(b). Louisiana Health Information Management Association;

(c). Louisiana Hospital Association;

(d). Louisiana State Medical Society;

(e). Louisiana State University;

(f). Metropolitan Hospital Council of New Orleans;

(g). Rural Hospital Coalition;

(h). Tulane University; and

(i). VHA Gulf States.

b. Panel Meetings. The state health officer or designee shall convene panel meetings. The panel will review research requests on a quarterly basis or as needed. Regular meeting dates shall be communicated to panel members in writing at least 21 calendar days prior to the meeting. If any emergency or ad-hoc meetings are required, meeting dates for these additional meetings shall be communicated to panel members, in writing, at least seven calendar days prior to the meeting.

c. Panel Quorum. A quorum shall require the presence of eight members. A majority of the members present must concur via a roll call vote for the panel to take action on the approval or disapproval of any research application.

d. Panel Records. Adequate documentation of the panel activities shall be maintained including the following:

i. copies of all research and special report proposals reviewed, including attachments;

ii. minutes of all panel meetings shall be in sufficient detail to show attendance at meetings, actions taken by the panel, the vote on the actions including the number of members voting for, against or abstaining, the basis for requiring changes in or disapproving research, and a written summary of controversial issues and their resolution;

iii. copies of all correspondence;

iv. the records required by these rules shall be retained for at least three years after completion of the research. These records shall be exempt from the Public Records Law.

2. Research Using Patient Level Records

a. Application. A request for use of hospital discharge information, excluding secure information, in research shall be in writing and shall be addressed to the state health officer. The data request must include:

i. a complete experimental protocol, including health objectives, rationale for the study, design detail and scientific basis for selection of subjects;

ii. a summary of the protocol, including a definition of, and justification for, the particular fields and records necessary for the research;

iii. copy of the informed consent form and an outline of the consent process, if required by the panel (for proposed follow-back research or contact with employers, payors, facilities, physicians or other healthcare providers);

iv. provisions to fully protect the confidentiality of the data and the privacy of patients and insured persons related to the patient;

v. affirmation that data files provided by OPH to the applicant will not be re-released to other researchers or anyone else not connected to the specific study for which the data is released;

vi. résumés of all investigators identifying their specific qualifications to do the research proposed, listing educational degrees and societies, certifying boards and academic institutions which have recognized their competence by granting membership, diploma, or title, previous work in the subject area and employment;

vii. approval from an institutional review board for this study or approval from an educational department

chairman where the applicant is employed by or associated with an institution which requires such approval;

viii. affirmation that a report of the findings resulting from the use of the records shall be provided to the state health officer;

ix. a signed agreement to indemnify and hold the office, its employees, panel members, and the original providers of the patient level data harmless from any liability arising out of the authorized or unauthorized use of the data.

b. Use of employer, facility, payor, physician or other healthcare provider identifiers. Researchers requesting any of these identifiers must additionally affirm that none of these identifiers or combinations of elements that identify or tend to identify any of these parties will be published or otherwise disclosed without the specific approval of the panel. If any physicians or other healthcare providers will be identified in a proposed publication, the panel must receive a copy of the study or report prior to submission for publication. Following receipt of this copy, the panel will require a two-week waiting period prior to final approval for publication.

c. Confidentiality of Data Used for Research. The researcher shall establish reasonable administrative, technical and physical safeguards to prevent unauthorized use or disclosure of the records. At the end of the project all confidential information will be destroyed.

d. Criteria for Approval of Research. The criteria for the approval of research shall include, but are not limited to:

i. the study objective and design reflect that the proposal is in the best interest of the public health;

ii. the selection of subjects is made on a scientific basis;

iii. the investigators/researchers are deemed qualified based on their past research, employment and education or other appropriate credentials;

iv. where appropriate, approval of an institutional review board has been obtained;

v. provisions to protect the confidentiality of the data and subjects comply with §15109.B.2 of this rule;

vi. the informed consent process and forms follow the guidelines required in these rules and will be appropriately documented as required.

e. Panel Review and Notification. The panel will review research requests on at least a quarterly basis. Following review, the panel shall notify requesters, in writing, of the decision to approve or disapprove the proposed study or modifications required to secure approval of the research activity. If the panel disapproves a request, it shall include in its written notification a statement of the reasons for its decision and give the investigator/researcher an opportunity to request reconsideration, in writing.

f. Requests for Reconsideration. Requests for reconsideration must be filed within 30 days of the date appearing on the notification. The panel shall schedule a hearing of the appeal to be held within 90 days of the date of receipt of the appeal. The principal investigator/ researcher has the right to appear to defend the proposal at a reconsideration hearing. If on reconsideration the research proposal is denied, the requester shall have a right to appeal the panel's decision in accordance with the procedure outlined below.

g. Appeal of Data Use Denial. Any person who submits a research, educational or administrative use proposal to the panel that is denied shall have a right to petition for judicial review of the panel's final action in accordance with the Administrative Procedure Act (R.S. 49:950 et seq.). This remedy shall be the exclusive means of appealing the action of the panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1936 (October 1998).

§15111. Incorporation by Reference

A. The following documents are incorporated by reference. They are available for public review at the State Center for Health Statistics, Office of Public Health.

1. *International Classification of Diseases, Clinical Modifications 9*. Copies are available from the World Health Organization, P.O. Box 5284, Church Street Station, New York, New York 10249.

2. *International Classification of Diseases, Clinical Modifications 10* (due for publication, December 1998). Copies will be available from the World Health Organization, P.O. Box 5284, Church Street Station, New York, New York 10249.

3. *Louisiana Uniform Billing Training Manual, UB-92*, including final addenda of July 21, 1993. Copies are available from the Louisiana Hospital Association, P.O. Box 80720, Baton Rouge, LA 70898-0026.

4. Uniform Hospital Billing Form 1992 (UB92/HCF-1450). Copies are available from the Office of Public Affairs, Health Care Financing Administration Humphrey Building, Room 428-H, 200 Independence Avenue S.W., Washington, D.C. 20201.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1937 (October 1998).

§15113. Hospital Discharge Data Submittal Guide—General

A. Data Reporting Source. All facilities operated and licensed as a hospital in the state of Louisiana by the Louisiana Department of Health and Hospitals will report *discharge data* to the Office of Public Health (OPH) for each patient admitted as an inpatient. A failure to report may result in action by the licensing authority.

B. Reporting Responsibilities

1. The single billing discharge data record must be submitted for the reporting period within which the discharge occurs. If a claim will not be submitted to a provider or carrier for collection (e.g., charitable service), a hospital discharge data record must still be submitted to OPH, with the normal and customary charges, as if the claim was being submitted.

2. Multiple Discharges. For a patient with multiple discharges, submit one discharge data record for each discharge.

3. Multiple Billing Claims. For a patient with multiple billing claims, the facility should submit all data related to a discharge in one of two ways:

a. consolidate the multiple billings into one discharge data record for submittal for the reporting period within which the discharge occurs; or

b. submit each interim billing claim for the reporting period in which the claim is generated.

4. A hospital may submit discharge data directly to OPH, or may designate an intermediary, such as a commercial data clearinghouse. Use of an intermediary does not relieve the hospital from its reporting responsibility. In order to facilitate communication and problem solving, each hospital should designate a contact person and a backup for the contact person. Provide the names, telephone numbers, and job titles of the persons assigned this responsibility to the Office of Public Health, Center for Health Statistics, on forms provided by OPH.

C. Confidentiality of Data. Act 622 provides for the strictest confidentiality of data and severe penalties for the violation of the Act. Any information collected from hospitals that identifies a patient or person under whom the patient is insured cannot be released. In addition, physician, facility, payor or employer identifiers cannot be released without Research Panel approval. The Office of Public Health needs patient-specific information to complete analyses. The office will take every prudent action to ensure the confidentiality and security of the data submitted. Procedures include, but are not limited to, physical security and monitoring, separation of personal identifiers from the analytical file, access to the files by authorized personnel only, passwords and encryption. Not all measures taken are documented or mentioned in this guide to further protect the data. After receiving and editing the data, OPH will separate personal patient identifiers (i.e., name, street address or P.O. Box, and SSN or other patient number). The database edits system will assign a unique nonpersonal key in order to maintain patient level data (i.e., a patient with multiple discharges can be tracked within and among hospitals.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1937 (October 1998).

§15115. Guide—Hospital Discharge Data Submittal Schedule

A. Each licensed Louisiana hospital which collects Hospital Discharge Information, as set forth in this rule, shall submit Hospital Discharge Records to the Office of Public Health in a manner that complies with the provisions of the guidelines here included for all hospital discharges occurring on or after January 1, 1998. While all hospitals are responsible for submitting their data to the Office of Public Health, some may contract with third-party intermediaries. All hospitals or their intermediaries will submit data to the Office of Public Health according to the reporting schedule listed below. See the section on use of intermediaries for further details.

1. Submittal Schedule. Discharge data records will be submitted to the Louisiana Office of Public Health as specified below.

a. Reporting Period. Hospitals (or their representatives) must generate and submit their data to OPH quarterly, excepting the first year (1998), in which data may

be submitted semiannually. Monthly submittal via electronic transfer is also encouraged.

b. Data Source. The submittal file must be created from the current transaction file or an equivalently cumulatively updated claim file and the submittal must be received by OPH no later than the dates below. Earliest practical submission of complete data is requested.

Note: It is understood that data for a given claim may not be complete during the first three-month post-discharge.

2. Reporting Schedules by Year

Reporting Schedules by Year	
Person's Date of Discharge Is	Data Must be Received By
1998	
January 1 through June 30, 1998	December 31, 1998
July 1 through December 31, 1998	June 30, 1999
1999	
January 1 through March 31	September 15, 1999
April 1 through June 30	December 15, 1999
July 1 through September 30	March 15, 2000
October 1 through December 31	June 15, 2000
2000 and after	
January 1 through March 31	August 31 (same year)
April 1 through June 30	November 30 (same year)
July 1 through September 30	February 28 (following year)
October 1 through December 31	May 31 (following year)

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1938 (October 1998).

§15117. Guide—Use of Data Processing Intermediaries

A. Third-party intermediaries may be utilized by hospitals for the delivery of data to the Office of Public Health. Intermediaries must be registered with OPH on registration forms provided by the Office. Additions and deletions to the intermediary's list of hospitals represented must be submitted at least 10 days prior to the submittal schedule reporting due date.

B. Hospitals shall notify the Office by January 1 of each year if they plan to submit the required data to the Office through a third-party intermediary that is registered with the Office. Hospitals selecting this option are responsible for ensuring that the submitted data conform to specifications contained in the Guide. These specifications include, but are not limited to, the format, timeliness, and quality criteria of completeness, validity and consistency outlined in the Guide. The third-party intermediary is responsible to the hospital for ensuring that the data are submitted to the Office in conformance with specifications contained in the Guide.

C. The following additional requirements and information apply to intermediaries delivering data to OPH:

1. Data may be delivered in any number of submittals (i.e., one per hospital, several hospitals combined, or all hospitals combined in one submittal), but the minimum unit of data submittal is all discharge records from one hospital per submittal time period.

2. Data may be submitted via any approved transfer media - declared at the time of registration.

3. Data may be submitted in any approved data format declared at the time of registration.

4. The intermediary must submit data for three or more hospitals.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1938 (October 1998).

§15119. Guide—Extensions and Waivers

A. All hospitals will submit discharge data in a form consistent with the requirements unless an extension or waiver has been granted. Extensions may be granted when the hospital documents that unforeseen difficulties, such as technical problems, prevent compliance. Waivers may be granted when the hospital documents the need for data format changes before it can begin collecting and submitting specific data elements. Waivers will also be granted upon request for difficulties that prevent compliance for the time period January 1 to June 30, 1998. Requests for extensions or waivers should be in writing and be directed to: Director, Division of Health Information, Louisiana Office of Public Health, 325 Loyola Avenue, Suite 503, New Orleans, LA 70112. Phone: (504) 568-7708 FAX: (504) 568-6594.

1. Extension of Time for Data Submittal

a. Any hospital which determines it temporarily will be unable to comply with a data submittal date or with data submittal time lines established in a previously submitted plan of correction may apply to the Office for an extension. An application for extension should be submitted at least 15 working days prior to the data submission deadline. The application for extension shall reference the relevant section number(s) and the relevant text of the rule or the documents incorporated by reference under §15111. The application for extension shall include specific reasons why the provider cannot comply with the rule in the required time frame, a specific plan sufficient to correct the problem, and the proposed data submission date.

b. The office shall act upon an application for extension of time within 10 working days of receiving the written request. Failure of the office to act on the application shall be deemed as a grant of the extension.

c. A denial of the application for extension shall be appealable to the assistant secretary of the Office of Public Health. The appeal shall be filed within seven days of receipt of the denial letter. The assistant secretary shall act on the request within seven days of its receipt and his/her action shall be final.

2. Waivers of Data Requirements

a. Any hospital which determines it will be unable to comply with any of the provisions of this rule or with the provisions of a previously submitted plan of correction, for

submission of particular data elements of the required format, quality or completeness for specific discharge periods, may apply to the office for a waiver. A data element-based waiver may be granted for the submission of specific data elements for specific durations and does not, in this case, relieve the hospital of the obligation to submit other required data elements in a timely manner. A general waiver may also be granted for compliance with the required data format. An Application for Waiver should be submitted at least 30 working days prior to the data submission deadline on a form provided by the office. In every case, the Application for Waiver shall reference the relevant section number(s) and the relevant text of the rule or the documents incorporated by reference under §15111. The Application for Waiver shall include specific reasons why the hospital cannot comply with the rule, a specific plan sufficient to correct the problem(s), and the earliest date(s) when the hospital will be compliant. Waivers will be granted upon determination of a satisfactory application during the first year, and as necessary thereafter.

b. The office shall act upon an Application for Waiver within 20 days of receiving the written request. Failure of the office to act on the application shall be deemed as a grant of the waiver.

c. A denial of the Application for Waiver shall be appealable to the assistant secretary of the Office of Public Health. The appeal shall be filed within seven days of receipt of the denial letter. The assistant secretary shall act on the request within seven days of its receipt and his/her action shall be final.

d. Failure of the hospital to submit an acceptable plan or to follow an accepted plan shall be considered continued and substantial noncompliance with this rule unless determined otherwise by the assistant secretary of the Office of Public Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1939 (October 1998).

§15121. Guide—Data Errors and Certification

A. Hospitals will review the discharge data records prior to submittal for accuracy and completeness. Correction of invalid records and validation of aggregate tabulation are the responsibility of the hospital. All hospitals will certify the data submitted for each reporting period in the manner specified and will annually review summary reports before statistical analyses are published by the Center for Health Statistics, Louisiana Office of Public Health.

1. Error Correction

a. The hospital is responsible for submitting accurate and complete data in one of the specified formats. The state may identify errors for hospital review, comment, and correction when applicable. The records with errors will be identified in a simplified format providing record identification and an indication or explanation of the error. The error report will be sent by certified mail or e-mail to the attention of the individual designated to receive the correspondence at the hospital.

b. In the event 5 percent or more of the records per hospital in a submittal period are in error, the submittal for that hospital will be rejected. A record is in error when one or more

Required Data Elements are missing or in error (excepting those elements for which a waiver has been granted). Notification of the rejection will accompany the error report and will be sent by certified mail to the attention of the individual designated to receive the correspondence at the hospital.

c. After the submittal has been corrected, the submittal is to be resubmitted, in its entirety and original format, within one month of receipt, to the Center for Health Statistics, Louisiana Office of Public Health. This correction cycle may repeat.

2. Certification and Review

a. Following receipt of a data submittal and completion of any needed error correction, the Center for Health Statistics will send the hospital-designated contact a Discharge Data Summary Report containing the total number of records received for the reporting period, by discharge disposition, and by payor class for each hospital.

b. The hospital-designated responsible contact will validate, in writing, the accuracy of the Discharge Data Summary Report and verify that the data sent were complete for that reporting period. Regardless of any waiver granted, the hospital will provide an estimate of the number of any unreported discharges for the reporting period. The signed validation will be returned to the Center for Health Statistics, Louisiana Office of Public Health within 10 working days.

3. Noncompliance

a. Upon written notification of noncompliance by the office, the chief executive officer shall have 10 working days following receipt of the written notification of noncompliance to provide the office with a written plan for correcting the deficiency. The plan of correction shall include specific reasons why the hospital cannot comply with the rule in the required time frame, a specific plan sufficient to correct the problem, and the proposed data submission date.

b. Failure of the hospital to submit an acceptable plan or to follow an accepted plan shall be considered continued and substantial noncompliance with this rule unless determined otherwise by the assistant secretary of the Office of Public Health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1939 (October 1998).

§15123. Guide—Data Submittal Specifications

A. Currently, data may be submitted by modem (the preferred method), PC diskette, CD-ROM, magnetic tape (reel), or electronic media to be determined by OPH. Additional media or modes of transfer will be announced by OPH as they become available. Data submittals not in compliance with transfer media or format specifications will be rejected unless approval is obtained prior to the scheduled due date from the Center for Health Statistics. Media labeling and data submittal specification updates will be posted on the OPH Web page.

1. Transfer. Data submittal standards shall encourage the use of electronic transfer of database files (structure to be provided by OPH) or structured ASCII files via telecommunications. Editing of data prior to submittal is

encouraged and assistance from OPH will be provided.

2. Address for Data Submittal: Center for Health Statistics, Louisiana Office of Public Health, 325 Loyola Avenue, Suite 503, New Orleans, La 70112; or: LAHIDD@dhhmail.dhh.state.la.us.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1940 (October 1998).

§15125. Guide—Data Elements

A. Listed below are required and conditionally required data elements. Submission of any other data elements is optional; hospitals do not need to suppress or strip other elements appearing in their claims files. All elements submitted will be treated confidentially.

1. Required Data Elements. If a hospital is currently or temporarily unable to provide any of the data elements listed here, the hospital must apply for a waiver or extension, as detailed in §15119 of this rule.

Data Element	Form Locator	1300 Record Number	1450	
			Record Type	Record Number
Patient Control Number • assigned by Provider	3	1	20	3
Type of Bill	4	2	40	4
Federal Tax ID (Facility EIN) • with Sub ID Number if applicable	5	3 165	10	4 5
Statement Covers Period From	6	4	20	19
Statement Covers Period Thru	6	5	20	20
Patient Name	12	(none)	20	4-6
Patient Address	13	6 (zip only)	20	12-16
Patient Date of Birth	14	7	20	8
Patient Sex	15	8	20	7
Admission Date	17	9	20	17
Type of Admission	19	11	20	10
Source of Admission	20	12	20	11
Patient Status at time of discharge	22	13	20	21
Medical/Health Record Number	23	14	20	25
Revenue Codes • Include all listed • Must be valid UB92 codes	42	Odd Number's 15-59	60 50	4, 13, 14, 4, 11, 12, 13
Units of Service • Include all listed	46	Odd Number's 97-141	60	8, 13, 14
Total Charges • Include all listed	47	Even Number's 16-60	60 50	9 7
Payor Classification • Include all listed • HCFA Payor ID number preferred	50	156, 157, 158	30	5

Principal Diagnosis Code	67	69	70	4
Other Diagnosis codes • Include all listed	68-75	70-77	70	5-12
Admitting Diagnosis Code	76	78	70	25
External cause of injury code (E-code) • Must contain data if possible	77	79	70	26
Principal Procedure Code and Date	80	80-81	70	13-14
Other Procedure Codes and Dates • Include all listed	81	82-91	70	15-24
Attending Physician ID • State License Number	82	92	80	5
Operating Physician Number • State License Number • Required if present	83	93	80	6
Other Physician ID • State License Number • Required if present	84	94	80	7-8
Patient Social Security Number	60 Only if insured	161	22	5a
Patient Race	none	155	22	7a
*Number of Claims	N/A	N/A	95	6
*Record Type	N/A	N/A	all	1
*Sequence Number	N/A	N/A	21-70, 72, 80-81	2

a. Elements marked with an asterisk are required for submittals of the electronic 1450 only; they are included because they are essential to the 1450.

b. The definitions of most data elements referred to in this rule can be found in the *Louisiana UB-92 Users Manual* referenced in §15109 of this rule. Hospitals using data sources other than uniform billing should evaluate their definitions for agreement with the definitions specified in this Guide and the *Louisiana UB-92 Users Manual*. The exceptions to referenced definitions are listed below.

i. *Patient's Race*—this alphanumeric one-character element contains race category information based on self-identification, which is to be obtained from the patient, a relative, or a friend. The hospital should not categorize the patient based on observation or personnel judgment. The patient may choose not to provide the information. If the patient chooses not to answer, the hospital should enter the code for unknown. If the hospital fails to request the information, the field should be space filled. Code as follows: 1 = Native American or Alaskan Native: A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition. 2 = Asian or Pacific Islander: A person having origins in any of the peoples of the Far East, South East Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa. 3 = African

American/Black: A person having origins in any of the black racial groups of Africa. 4 = Caucasian/White: A person having origins in any of the Caucasian peoples of Europe, North Africa, or the Middle East. 5 = Other: Any possible options not covered in the above categories. 6 = Unknown: A person who chooses not to answer the question. Blank Space: The hospital made no effort to obtain the information.

ii. *Patient Social Security Number*—numeric, 10-character entry containing the Social Security Number of the patient receiving care. This field is to be right justified with zeroes to the left to complete the field. The format of SSN is 0123456789 without hyphens. If the patient is a newborn, use the mother's SSN. If a patient does not have a social security number fill with zeroes. The field is edited for a valid entry.

2. Additional Data Elements Required if Available. These elements are required if the facility systematically collects the data in the ordinary course of operations as part of the facility's standard operating procedures and that data is readily available for inclusion in the claim file.

Date Element	Form Locator	1300 Record Number	1450	
			Record Type	Record Number
Provider Name	1	(none)	10	12
Provider Address • Must include zip code and city	1	(none)	10	13-16
Marital Status	16	(none)	20	9
Admission Hour	18	10	20	18
Discharge Hour	21	166	20	22
Provider Number	51	62, 144, 149	30	24
Insured's Name	58	(none)	30	12-14
Patient's Relationship to the Insured	59	63, 145, 150	30	18
(Insured's) Certificate/SSN/Health Insurance Claim/Identification Number	60	64, 146, 151	30	7
Insured Group Name	61	(none)	30	11
Insurance Group Number	62	65, 147, 152	30	10
Treatment Authorization Code	63	(none)	40	5-7
Employment Status Code	64	66	30	19
Employer Name or EIN	65	67	31 21	9 4
Employer Location	66	68 (zip only)	31 21	10-13 5-8

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§15127. Guide—Record Formats

A. The accepted data record formats are the UB-92 1450 version 4.1 format and the UB-92 1300 flat file format. The

definition specified for each data element is in general agreement with the definition in the *UB-92 Users Manual*. Hospitals using data sources other than uniform billing should evaluate definitions for agreement with the definitions specified in this Guide and the *UB-92 Users Manual*. See §§15125 and 15127.B.3 to identify possible differences between standard referenced formats and requirements under this rule.

1. UB-92 1450 Version 4.1 Record Specification. The UB-92 1450 claim record is made up of a series of 192-character physical records, as listed in the *Louisiana UB-92 Training Manual*. Record Types not specified in the required data elements list are requested but are not required for submittal.

2. UB-92 1300 Record Specification. The UB-92 1300 flat file contains one record per discharge, except in the case of multi-page claims. However, the standard 1300 format does not contain some fields that are found on the 1450 format. The 1300 record format is included in §15127.A.2.c below.

a. Use of Multi-Page Claims. All data except revenue code and charge fields should be duplicated on successive records. All available revenue and charge fields should be completely filled before using additional records. The last entry must be the Total Charge (001) Revenue Code and the Charge Amount must be the total of all previous entries. Any remaining revenue and charge fields must be blank or zero filled. No zero or space filled fields should precede the 001 entry.

b. Exceptions to 1300 Format. Inclusion of the 1300 format as an accepted data format required the addition of data elements not found in the version currently used in Louisiana. The following fields indicate the locations for the additional data elements:

Number	Field Name	Form Locator
10	Admission Hour	FL18
14	Medical Record Number	FL23
78	Admitting Diagnosis	FL76
93	Operating Physician Number	FL83
153	Infant Birth Weight	(none)
154	Infant APGAR Score	(none)
155	Patient Race	(none)

c. 1300 Discharge Record. The record layouts that follow will provide the following information.

- i. Record Number: Sequentially assigned record number (This is not the Form Locator).
- ii. Field Name—the name of the data element (field).
- iii. Picture—this is the COBOL picture. Pic X is initialized to blanks and Pic 9 is initialized to zeroes. All money and date fields are Pic 9.
- iv. Justification—indicates how the data field is justified (left or right).
- v. Start Position—leftmost position in the record.

- vi. End Position—rightmost position in the record.
- vii. Form Locator—this is the number found on the UB-92 paper form associated with the given field.

Record Number	Field Name	Picture	Justification	Start	End	Form Locator
1.	Patient Control Number	X(20)	L	1	20	FL03
2.	Type of Bill	9(3)	R	21	23	FL04
3.	Federal Tax Number (EIN)	X(10)	L	24	33	FL05
4.	Statement Covers Period: FROM MMDDYYYY	9(8)	R	34	41	FL06
5.	Statement Covers Period: TO MMDDYYYY	9(8)	R	42	49	FL06
6.	Patient Address Zip Code	X(9)	L	50	58	FL13
7.	Patient Date of Birth MMDDYYYY	9(8)	R	59	66	FL14
8.	Patient Sex	X(1)	L	67	67	FL15
9.	Admission Date	9(8)	R	68	75	FL17
10.	Admission Hour	9(2)	R	76	77	FL18
11.	Type of Admission	X(1)	L	78	78	FL19
12.	Source of Admission	X(1)	L	79	79	FL20
13.	Patient Status	9(2)	R	80	81	FL22
14.	Medical Record Number	X(17)	L	82	98	FL23
15.	Revenue Code Line 1	9(4)	R	99	102	FL42
16.	Total Charges by Revenue 1	S9(8)V99	R	103	112	FL47
17.	Revenue Code Line 2	9(4)	R	113	116	FL42
18.	Total Charges by Revenue 2	S9(8)V99	R	117	126	FL47
19.	Revenue Code Line 3	9(4)	R	127	130	FL42
20.	Total Charges by Revenue 3	S9(8)V99	R	131	140	FL47
21.	Revenue Code Line 4	9(4)	R	141	144	FL42
22.	Total Charges by Revenue 4	S9(8)V99	R	145	154	FL47
23.	Revenue Code Line 5	9(4)	R	155	158	FL42
24.	Total Charges by Revenue 5	S9(8)V99	R	159	168	FL47

25.	Revenue Code Line 6	9(4)	R	169	172	FL42
26.	Total Charges by Revenue 6	S9(8)V99	R	173	182	FL47
27.	Revenue Code Line 7	9(4)	R	183	186	FL42
28.	Total Charges by Revenue 7	S9(8)V99	R	187	196	FL47
29.	Revenue Code Line 8	9(4)	R	197	200	FL42
30.	Total Charges by Revenue 8	S9(8)V99	R	201	210	FL47
31.	Revenue Code Line 9	9(4)	R	211	214	FL42
32.	Total Charges by Revenue 9	S9(8)V99	R	215	224	FL47
33.	Revenue Code Line 10	9(4)	R	225	228	FL42
34.	Total Charges by Revenue 10	S9(8)V99	R	229	238	FL47
35.	Revenue Code Line 11	9(4)	R	239	242	FL42
36.	Total Charges by Revenue 11	S9(8)V99	R	243	252	FL47
37.	Revenue Code Line 12	9(4)	R	253	256	FL42
38.	Total Charges by Revenue 12	S9(8)V99	R	257	266	FL47
39.	Revenue Code Line 13	9(4)	R	267	270	FL42
40.	Total Charges by Revenue 13	S9(8)V99	R	271	280	FL47
41.	Revenue Code Line 14	9(4)	R	281	284	FL42
42.	Total Charges by Revenue 14	S9(8)V99	R	285	294	FL47
43.	Revenue Code Line 15	9(4)	R	295	298	FL42
44.	Total Charges by Revenue 15	S9(8)V99	R	299	308	FL47
45.	45 Revenue Code Line 16	9(4)	R	309	312	FL42
46.	Total Charges by Revenue 16	S9(8)V99	R	313	322	FL47
47.	Revenue Code Line 17	9(4)	R	323	326	FL42
48.	Total Charges by Revenue 17	S9(8)V99	R	327	336	FL47
49.	Revenue Code Line 18	9(4)	R	337	340	FL42
50.	Total Charges by Revenue 18	S9(8)V99	R	341	350	FL47
51.	Revenue Code Line 19	9(4)	R	351	354	FL42

52.	Total Charges by Revenue 19	S9(8)V99	R	355	364	FL47
53.	Revenue Code Line 20	9(4)	R	365	368	FL42
54.	Total Charges by Revenue 20	S9(8)V99	R	369	378	FL47
55.	Revenue Code Line 21	9(4)	R	379	382	FL42
56.	Total Charges by Revenue 21	S9(8)V99	R	383	392	FL47
57.	Revenue Code Line 22	9(4)	R	393	396	FL42
58.	Total Charges by Revenue 22	S9(8)V99	R	397	406	FL47
59.	Revenue Code Line 23	9(4)	R	407	410	FL42
60.	Total Charges by Revenue 23	S9(8)V99	R	411	420	FL47
61.	Filler	X(25)		421	445	
62.	First Provider Number (Payor)	X(13)	L	446	458	FL51A
63.	Patient's Relationship to Insured	X(2)	L	459	460	FL59A
64.	Certificate/SocSec Number/ Health Insurance Claim/ Identification Number	X(19)	L	461	479	FL60A
65.	Insurance Group Number	X(20)	L	480	499	FL62A
66.	Employment Status Code	X(1)	L	500	500	FL64
67.	Employer Name	X(24)	L	501	524	FL65
68.	Employer Zip Code	X(9)	L	525	533	FL66
(For Diagnosis and Procedure Codes (69-90)-omit decimal)						
69.	Principal Diagnosis Code	X(6)	L	534	539	FL67
70.	Other Diagnosis Code 1	X(6)	L	540	545	FL68
71.	Other Diagnosis Code 2	X(6)	L	546	551	FL69
72.	Other Diagnosis Code 3	X(6)	L	552	557	FL70
73.	Other Diagnosis Code 4	X(6)	L	558	563	FL71
74.	Other Diagnosis Code 5	X(6)	L	564	569	FL72
75.	Other Diagnosis Code 6	X(6)	L	570	575	FL73
76.	Other Diagnosis Code 7	X(6)	L	576	581	FL74

77.	Other Diagnosis Code 8	X(6)	L	582	587	FL75
78.	Admitting Diagnosis	X(6)	L	588	593	FL76
79.	External Cause of Injury (E-Code)	X(6)	L	594	599	FL77
80.	Principal Procedure Code	X(7)	L	600	606	FL80
81.	Principal Procedure Date MMDDYY	9(6)	R	607	612	FL80
82.	Other Procedure 1 : Code	X(7)	L	613	619	FL81
83.	Other Procedure 1 : Date MMDDYY	9(6)	R	620	625	FL81
84.	Other Procedure 2 : Code	X(7)	L	626	632	FL81
85.	Other Procedure 2 : Date MMDDYYYY	9(6)	R	633	638	FL81
86.	Other Procedure 3 : Code	X(7)	L	639	645	FL81
87.	Other Procedure 3 : Date MMDDYY	9(6)	R	646	651	FL81
88.	Other Procedure 4 : Code	X(7)	L	652	658	FL81
89.	Other Procedure 4 : Date MMDDYY	9(6)	R	659	664	FL81
90.	Other Procedure 5 : Code	X(7)	L	665	671	FL81
91.	Other Procedure 5 : Date MMDDYY	9(6)	R	672	677	FL81
92.	Attending Physician Number	X(22)	L	678	699	FL82
93.	Other Physician Number	X(22)	L	700	721	FL83
94.	Other Physician Number	X(22)	L	722	743	FL84
95.	Filler	X(2)	L	744	745	
96.	Century Flag Patient's DOB 0=Birth Year 1900 1=Birth Year<1900	9(1)	R	746	746	
(Dates of Service-even numbers from 97-142; MMDDYY)						
97.	Units of Service Line 1	9(7)	R	747	753	FL46
98.	Date of Service Line 1	9(6)	R	754	759	FL45
99.	Units of Service Line 2	9(7)	R	760	766	FL46

100.	Date of Service Line 2	9(6)	R	767	772	FL45
101.	Units of Service Line 3	9(7)	R	773	779	FL46
102.	Date of Service Line 3	9(6)	R	780	785	FL45
103.	Units of Service Line 4	9(7)	R	786	792	FL46
104.	Date of Service Line 4	9(6)	R	793	798	FL45
105.	Units of Service Line 5	9(7)	R	799	805	FL46
106.	Date of Service Line 5	9(6)	R	806	811	FL45
107.	Units of Service Line 6	9(7)	R	812	818	FL46
108.	Date of Service Line 6	9(6)	R	819	824	FL45
109.	Units of Service Line 7	9(7)	R	825	831	FL46
110.	Date of Service Line 7	9(6)	R	832	837	FL45
111.	Units of Service Line 8	9(7)	R	838	844	FL46
112.	Date of Service Line 8	9(6)	R	845	850	FL45
113.	Units of Service Line 9	9(7)	R	851	857	FL46
114.	Date of Service Line 9	9(6)	R	858	863	FL45
115.	Units of Service Line 10	9(7)	R	864	870	FL46
116.	Date of Service Line 10	9(6)	R	871	876	FL45
117.	Units of Service Line 11	9(7)	R	877	883	FL46
118.	Date of Service Line 11	9(6)	R	884	889	FL45
119.	Units of Service Line 12	9(7)	R	890	896	FL46
120.	Date of Service Line 12	9(6)	R	897	902	FL45
121.	Units of Service Line 13	9(7)	R	903	909	FL46
122.	Date of Service Line 13	9(6)	R	910	915	FL45
123.	Units of Service Line 14	9(7)	R	916	922	FL46
124.	Date of Service Line 14	9(6)	R	923	928	FL45
125.	Units of Service Line 15	9(7)	R	929	935	FL46
126.	Date of Service Line 15	9(6)	R	936	941	FL45

127.	Units of Service Line 16	9(7)	R	942	948	FL46
128.	Date of Service Line 16	9(6)	R	949	954	FL45
129.	Units of Service Line 17	9(7)	R	955	961	FL46
130.	Date of Service Line 17	9(6)	R	962	967	FL45
131.	Units of Service Line 18	9(7)	R	968	974	FL46
132.	Date of Service Line 18	9(6)	R	975	980	FL45
133.	Units of Service Line 19	9(7)	R	981	987	FL46
134.	Date of Service Line 19	9(6)	R	988	993	FL45
135.	Units of Service Line 20	9(7)	R	994	1000	FL46
136.	Date of Service Line 20	9(6)	R	1001	1006	FL45
137.	Units of Service Line 21	9(7)	R	1007	1013	FL46
138.	Date of Service Line 21	9(6)	R	1014	1019	FL45
139.	Units of Service Line 22	9(7)	R	1020	1026	FL46
140.	Date of Service Line 22	9(6)	R	1027	1032	FL45
141.	Units of Service Line 23	9(7)	R	1033	1039	FL46
142.	Date of Service Line 23	9(6)	R	1040	1045	FL45
143.	Filler	X(25)	L	1046	1070	
144.	Second Provider Number (Payor)	X(13)	L	1071	1083	FL51B
145.	Patient's Relationship to Insured	X(2)	L	1084	1085	FL59B
146.	Certificate/SocSec Number/ Health Insurance Claim/ Identification Number	X(19)	L	1086	1104	FL60B
147.	Insurance Group Number	X(20)	L	1105	1124	FL62B
148.	Filler	X(25)	L	1125	1149	
149.	Third Provider Number (Payor)	X(13)	L	1150	1162	FL51C
150.	Patient's Relationship to Insured	X(2)	L	1163	1164	FL59C

151.	Certificate/SocSec Number/ Health Insurance Claim/ Identification	X(19)	L	1165	1183	FL60C
152.	Insurance Group Number	X(20)	L	1184	1203	FL62C
153.	Infant Birth Weight (in grams)	9(4)	R	1204	1207	
154.	Infant APGAR Score	9(4)	R	1208	1211	
155.	Patient Race	9(1)	R	1212	1212	
156.	Primary Payor Code	X(2)	L	1213	1214	FL50A
157.	Second Payor Code	X(2)	L	1215	1216	FL50B
158.	Third Payor Code	X(2)	L	1217	1218	FL50C
159.	Medicaid Provider Number	X(12)	L	1219	1230	FL51
160.	Medicare Provider Number	X(12)	L	1231	1242	FL51
161.	Patient Social Security Number	X(9)	L	1243	1251	FL60
162.	Primary Payor Carrier ID Code	X(4)	L	1252	1255	
163.	Second Payor Carrier ID Code	X(4)	L	1256	1259	
164.	Third Payor Carrier ID Code	X(4)	L	1260	1263	
165.	Federal Tax Sub ID.	X(4)	L	1264	1267	
166.	Filler	X(2)	L	1268	1269	
167.	Filler	X(31)	L	1270	1300	

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1300.112(D).

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of Public Health, LR 24:1941 (October 1998).

Interested persons may submit written comments within 20 days of this publication at the following address: Mark Shields, MD, MS, MPH, Director, Division of Health Information, DHH-OPH, P.O. Box 60630, New Orleans, Louisiana 70160.

David Hood
Secretary

9810#057

RULE

**Department of Health and Hospitals
Office of the Secretary**

Maternal and Child Health Block Grant Application

The Department of Health and Hospitals (DHH) is adopting a Rule to apply for Maternal and Child Health (MCH) Block Grant Federal Funding for FY 1998-99 in accordance with Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, and with federal regulations as set forth in the *Federal Register* Vol. 47, Number 129, Tuesday, July 6, 1982, pages 29472-29493.

DHH will continue to administer programs funded under the MCH Block Grant in accordance with provisions set forth in Public Law 97-35 and the federal regulations. The Office of Public Health is the Office responsible for program administration of the grant.

David W. Hood
Secretary

9810#056

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Ambulatory Surgical Centers (LAC 48:I.4523)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the licensing regulations for ambulatory surgical centers as established by R.S. 40:2131-2141. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

**Title 48
PUBLIC HEALTH—GENERAL
Part I. General Administration
Subpart 3. Licensing and Certification
Chapter 45. Ambulatory Surgical Center
§4523. Water Supply**

* * *

All centers shall be provided with an adequate supply of safe and palatable water under pressure. Water must be obtained from a water supply approved by the Office of Public Health.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:2131-2143.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of the Secretary, Division of Licensing and Certification, LR 13:246 (April 1987), amended by the Department of Health and Hospitals, Office of the Secretary, LR 24:1946 (October 1998).

David W. Hood
Secretary

9810#048

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

**Medicaid—Children Supplemental
Security Income (SSI)**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4913 of the Balanced Budget Act of 1997 to establish a new mandatory eligibility group for eligible children whom on August 22, 1996 were receiving Supplemental Security Income (SSI) but who effective July 1, 1997, or later, lost SSI payment because of a disability determination under the rules enacted by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

Medicaid benefits for children whose eligibility is reinstated under this provision applies to medical assistance furnished on or after July 1, 1997.

David W. Hood
Secretary

9810#055

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Medicaid—Hemophilia Settlement

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 4735 of the Balanced Budget Act of 1997 which states that notwithstanding any other provision of law, payments made from any fund established pursuant to a class settlement entitled, "Factor VIII or IX Concentrate Blood Products Litigation," MDL 986 (Number 93-C-7452, Northern District of Illinois) shall not be considered as income or resources in determining either eligibility for, or the amount of benefits under, the Medicaid program. While the

settlement payments may not be counted as income or resource under Medicaid, Section 4735 does not similarly exempt any income that may be derived from those payments. Provisions governing transfers of assets and treatment of trusts under Section 1917 of the Social Security Act are not applicable, since the settlement payments are not counted as income or resources in determining eligibility.

David W. Hood
Secretary

9810#054

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Medicaid—Louisiana Children's
Health Insurance Program (LaChip)

The Department of Health and Hospitals, Bureau of Health Services Financing, adopts the following rule as authorized by R.S. 46:153. This rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing implements the first phase of the Louisiana Children's Health Insurance Program (LaCHIP) for children up to 133 percent of the federal poverty level (FPL) by expanding coverage to uninsured children under the Title XIX (Medicaid) and Title XXI. This is in compliance with the section 4901 of the Balanced Budget Act enacting Title XXI of the Social Security Act and Act 128 of the First Extraordinary Session of the 1998 Louisiana Legislature enacting the LaCHIP Program. The LaCHIP Medicaid expansion covers uninsured children who meet the following criteria:

- 1) are under the age of 19;
- 2) are from families with incomes at or below 133 percent of the federal poverty level;
- 3) do not meet the state's Medicaid eligibility criteria in effect as of March 31, 1997.

Children who are excluded from coverage under the LaCHIP Medicaid expansion are:

- 1) those currently eligible for Medicaid;
- 2) those currently covered by other types of health insurance;
- 3) inmates of a public institution; and
- 4) patients in an institution for mental disease.

Children are considered uninsured for the purpose of determining eligibility for LaCHIP if they do not have creditable coverage for health insurance. The department is adopting the definition of creditable coverage for health insurance, the definition for health insurance coverage, and the exceptions to health insurance coverage as cited in section 2110 of the Social Security Act which references 42 U.S.C. §300 gg(c)(1), §300 gg-91(b)(1), and §300 gg-91(c)(1).

Children shall not be considered uninsured if their creditable coverage is dropped within the three calendar months prior to application for LaCHIP benefits unless the reason for dropping the coverage is loss of the employment that provided access to

insurance coverage. For the purposes of this proposed rule, the term *loss of employment* shall include the following:

- 1) loss of employment due to a lay-off, down-sizing, resignation, firing, etc.;
- 2) death of the parent whose employment provided access to dependent coverage;
- 3) change of employment to an employer that does not provide an option for dependent coverage;
- 4) discontinuation of health benefits for all employees of the applicant's employer;
- 5) expiration of coverage periods established by the Consolidated Omnibus Reconciliation Act of 1985 (COBRA); or
- 6) termination of health benefits due to a long term disability of the parent whose employment provided access to dependent coverage.

David W. Hood
Secretary

9810#036

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Medicaid—Low Income Families

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing amends the current policy governing countable resources for low income families with children to exempt the following resources from consideration for the determination of Medicaid eligibility:

- 1. burial insurance, funeral plans, or funeral agreements;
- 2. cash surrender values of life insurance policies; and
- 3. equity value up to \$10,000 of one vehicle used for personal transportation.

David W. Hood
Secretary

9810#053

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Medicaid—Twelve-Month
Continuous Eligibility

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the

following rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq.

Rule

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provision to provide continuous Medicaid eligibility for children under age 19 for 12 months from the date of determination as allowed under §4731 of the Balanced Budget Act of 1997 and directed by Act 128 §976.A.(4) of the First Extraordinary Session of 1998 of the Louisiana Legislature. However, 12 months of continuous Medicaid eligibility is not available to children who are eligible under the medically needy category.

David W. Hood
Secretary

9810#047

RULE

**Department of Labor
Plumbing Board**

Examination Integrity (LAC 46:LV.311)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Plumbing Board implements a new rule regarding the conduct of its examinations for licenses established by the Plumbing Law, R.S. 37:1361 et seq. this rule prohibits certain uses of resource materials by examinees and establishes appeal rights for examinees determined to have violated these prohibitions.

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 3. Licenses

§311. Integrity of Examination

The Board may reject an examination for any license or endorsement under this chapter, if it determined that the applicant completed any portion of any such examination with the assistance of any other person or unauthorized written materials secreted into the examination site. Examinees will be allowed to utilize resource or industry code materials approved by the Board or its examiners conducting the examination. Examinees determined to have violated the prohibitions of this section shall be notified in writing and, upon request by the examinee or at the direction of the Executive Director, an informal conference before the Executive Director or committee appointed by the Board will be conducted. An affected examinee may appeal the determination reached in the informal conference by filing a written appeal with the Board. Such appeal hearings shall comport with the provisions of R.S. 49:955(B). Based on the evidence adduced at any such hearing, the board may impose sanctions upon the examinee with respect to any subsequently administered examination and related licensing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(D).

HISTORICAL NOTE: Promulgated by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998).

Don Traylor
Executive Director

9810#004

RULE

**Department of Labor
Plumbing Board**

Examination Requirements (LAC 46:LV.305)

The Louisiana State Plumbing Board ("Board"), pursuant to R.S. 37:1366(A) and (D) and 1377, has amended and restated Plumbing Regulation, LAC 46:LV.305.B, in accordance with the Administrative Procedure Act. This rule change notifies the public of the establishment of a centralized testing location for persons seeking licensing as a journeyman or master plumber. Since the applicable rule relating examinations for master plumber applicants, LAC 46:LV.306, states that such examinations are to be conducted in conjunction with examinations conducted pursuant to §305.B, there is no need to restate the former rule. LAC 46:LV.305.B is restated and/or amended as follows:

Title 46

**PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

Part LV. Plumbers

Chapter 3. Licenses

**§305. Requirements to Take Exam for Journeyman
Plumber's License**

* * *

B. Regular quarterly examinations will be held on the first Saturday of January, April, July and October in the City of Baton Rouge, or on such days specially set by the board. Regularly scheduled examinations are subject to postponement or relocation to accommodate legal holidays or other conditions beyond the control of the board.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:1366(A) and (D).

HISTORICAL NOTE: Adopted by the Department of Labor, Plumbing Board, 1968, amended LR 14:440 (July 1988), LR 15:1088 (December 1989), repromulgated, as amended, by the Department of Employment and Training, Plumbing Board, LR 17:51 (January 1991), amended by the Department of Labor, Plumbing Board, LR 24:1948 (October 1998).

All currently stated Rules of the board, unless amended herein, shall remain in full force and effect.

Don Traylor
Executive Director

9810#002

RULE

Department of Revenue Office of Alcohol and Tobacco Control

Responsible Vendor Program (LAC 55:VII.501-509)

Under the authority of R.S. 26:933 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Revenue, Office of Alcohol and Tobacco Control, has amended Chapter 5 of LAC 55:VII, pertaining to the Responsible Vendor Program.

Act 1054 of the 1997 Regular Session of the Louisiana Legislature enacted R.S. 26:931 et seq., to establish the Responsible Vendor Program to educate vendors, their employees and customers about selling, serving, and consuming alcoholic beverages in a responsible manner. LAC 55:VII.501, adopted April 1998, implemented assessment of an annual \$35 fee for all new and renewal permits for licensed establishments holding Class "A" General, Class "A" Restaurant, or a Class "B" Retail Alcoholic Beverage Control Permits issued under R.S. 26:71 or R.S. 26:271 to fund administration of the Responsible Vendor Program.

These amendments to §501 to move the fee provisions to §505.A.4 and add §§503 et seq., which establishes the program's purpose; defines terms; prescribes requirements for responsible vendor certification, server permitting, training provider and trainer approval, certification, and record retention; and specifies minimum course standards for server training classes.

Title 55

PUBLIC SAFETY

Part VII. Alcohol and Tobacco Control

Chapter 5. Responsible Vendor Program

§501. Purpose

The Responsible Vendor Program is intended to educate vendors and their employees and customers about selling, serving, and consuming beverage alcohol, tobacco, and tobacco products. Chapter 5 relates to the development, establishment, and maintenance of the Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:702 (April 1998), amended LR 24:1949 (October 1998).

§503. Definitions

For purposes of this Chapter, the following terms are defined:

Approved Provider—an individual, unincorporated association, partnership, or corporation approved by the program administrator to provide server training courses.

Commissioner—the commissioner of the state Office of Alcohol and Tobacco Control.

Program Administrator—a committee or board of nine persons that shall develop and administer the Responsible Vendor Program.

Responsible Vendor—any vendor who qualifies and maintains certification in the Responsible Vendor Program.

Responsible Vendor Handbook—the handbook that is

developed, published, and distributed by the program administrator and approved by the commissioner.

Server—any employee of a vendor who is authorized to sell or serve beverage alcohol in the normal course of his or her employment or deals with customers who purchase or consume beverage alcohol.

Server Permit—the permit issued to a server upon completion of a server training course and all refresher courses.

Trainer—an individual employed or authorized by an approved training provider to conduct an alcohol server education course wherein the successful completion of the course by the student will result in the issuance of a server permit.

Vendor—any holder of a state Class A—General, Class A—Restaurant, or Class B—Retail permit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1949 (October 1998).

§505. Vendors

A. Certification and Enrollment as a Responsible Vendor

1. The vendor shall review and understand the vendor handbook.

2. The vendor shall provide the Office of Alcohol and Tobacco Control with a completed "vendor affidavit" for enrollment in the program.

3. The vendor shall require all "servers" to attend an approved server training course within 45 days of the first day of employment.

4. The vendor shall pay an annual fee of \$35 per licensed establishment holding a Class A—General, Class A—Restaurant, or Class B—Retail permit for the purpose of funding development and administration of the Responsible Vendor Program.

a. The fee shall be assessed on all new and renewal applications for retail permits to engage in the business of dealing in alcoholic beverages.

b. The fee shall not be assessed to those parties seeking a Special Event Permit under the provisions of R.S. 26:793(A).

B. Maintaining Certification

1. The vendor shall keep the vendor handbook current with all updates and periodic amendments distributed by the program administrator.

2. The vendor shall provide new employees already licensed under the Responsible Vendor Program with the rules and regulations applicable in the parish or municipality of the establishment's location.

3. The vendor shall maintain server training records, which include the name, date of birth, social security number, and date of hire for all servers. The records shall be kept on the licensed premises at all times for inspection by agents of the Office of Alcohol and Tobacco Control or other peace officers.

4. The vendor shall post signs on the licensed premises informing customers of the vendor's policy against selling alcoholic beverages or tobacco products to underage persons if required by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1949 (October 1998).

§507. Servers

A. Server applicants with special needs, such as an inability to read or write in English, hearing impairment, etc., shall contact the approved training provider at least one week before the alcohol server training course to request specific assistance in completing the course. Notwithstanding any other provision of Chapter 5, the approved provider and the program administrator shall attempt to provide reasonable accommodation when requested in compliance with state and federal law.

B. Server Permit

1. Server permits shall be valid for two years from the completion of an approved alcohol training course.

2. Whenever a server is employed in the service of alcohol, their permit and one legal form of picture identification shall be available on the premises for inspection by agents of the Office of Alcohol and Tobacco Control or other peace officers.

3. A server's refusal or failure to make their permit available on the premises for immediate inspection by authorized agents or peace officers shall be evidence of a violation of this Section.

C. Server Permit Verification. The Office of Alcohol and Tobacco Control shall maintain a list of currently certified servers by name, permit number, and date of birth, so that vendors can verify the validity of the servers' permits.

D. Permit Expiration, Renewal, and Lost Permits

1. Every server permit shall expire on the last day of the month, two years after the month that the server successfully completed the alcohol server education course.

2. To be eligible for renewal of a server permit, the server shall again attend and successfully pass an alcohol server's education course and examination given by an approved provider.

3. Lost permits shall be canceled and a replacement issued by the Office of Alcohol and Tobacco Control after the server submits an affidavit of lost permit and a \$5 fee.

E. Illegal Possession of a Permit. Any person who falsifies, keeps, or possesses a server permit contrary to the provisions of this Chapter shall be guilty of a violation of this Chapter.

F. Server Liability; Penalties, Fines, Suspension, or Revocation of Server Permit. Notwithstanding any criminal actions taken, the commissioner may issue administrative violation notices to any holder of a server permit for noncompliance with this Chapter or for any violation, attributable to the server, of Title 26 of the Louisiana Revised Statutes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1950 (October 1998).

§509. Training; Providers and Trainers

A. Trainer Certification. Approved providers shall only contract with trainers that have any combination of a minimum of two years of:

1. verified full-time employment in the fields of training, education, law, law enforcement, substance abuse rehabilitation, the hospitality or retail industry that involved the sale or service of alcohol; or

2. post-secondary education in the fields of training, education, law, law enforcement, substance abuse rehabilitation, or the hospitality or retail industry that involved the sale or service of alcohol.

B. Provider Certification

1. A person or business entity that applies to become an approved provider for alcohol server education shall submit the following to the program administrator:

a. a completed application form provided by the program administrator;

b. a copy of the lesson plans, audio, visual, and printed materials provided as part of the alcohol server training course;

c. a copy of the examinations;

d. the names, dates of birth, social security numbers, addresses and phone numbers, and educational and employment backgrounds of all trainers to be used in teaching the course; and

e. notification of any changes within 30 days of hiring, contracting with, or termination of any trainers.

2. After the program content or method of presentation has been approved by the program administrator, the provider shall notify and obtain approval of any changes from the program administrator.

C. The alcohol server permits issued by the program providers to students who successfully complete the server training programs shall be obtained from the Office of Alcohol and Tobacco Control.

D. Denial or Recision of Program Approval

1. The program administrator may deny or rescind approval of any program if any of the following is found:

a. the program does not meet the minimum course standards set out in Chapter 5;

b. the Application for Program Certification is not correct or complete;

c. any trainer has been convicted of a felony or of a misdemeanor related to theft, fraud, or misrepresentation and it has been less than three years since the discharge of the sentence imposed as a result of the conviction; or

d. any trainer has been convicted of operating a vehicle while intoxicated at the time they were employed as a trainer and it has been less than one year since the discharge of the sentence imposed as a result of the conviction.

2. Within 10 days after receipt of the notice that the program approval has been denied or rescinded, the applicant has the right to request a hearing before the program administrator.

3. If the applicant fails to request a hearing, the right to a hearing is waived and the program administrator's decision is final.

4. The notice that the program approval has been denied or rescinded shall be served by either certified mail or personal service at the applicant's main office to any adult agent or employee or to its registered agent.

E. Provider and Trainer Records—Rights of Inspection

1. Within 10 days of any training course, the approved provider shall submit to the Office of Alcohol and Tobacco Control a copy of the server permit forms issued and a report of the server training that includes the following:

a. the name, social security number, permit number, address, telephone number, and date of birth of each student that completed the training course and passed the required examination;

b. the name of the trainer that conducted the course and the trainer's signature and verification that each student listed has successfully completed the approved course on the date indicated and any other facts as the program administrator or agents or employees of the Office of Alcohol and Tobacco Control may require.

2. Copies of the examinations and permits shall be kept for two years from the date of issue at the approved provider's place of business available for inspection and copying by agents or employees of the Office of Alcohol and Tobacco Control.

3. The approved provider shall maintain for two years from the date the class was conducted, the course information, which includes the class location, date, and time; trainer's name; and the student's names, Social Security Number, and permit number. These records shall be maintained at the approved provider's place of business available for inspection and copying by agents or employees of the Office of Alcohol and Tobacco Control.

F. Approved Provider Minimum Course Standards

1. To be certified to issue a server permit, the provider's course of instruction shall include the subject areas enumerated in R.S. 26:933(C), as well as the following:

a. introduction:

i. brief review of the law creating the Louisiana Responsible Vendor Program, which shall include when the program was enacted, who is required to participate and how, when it becomes mandatory, nature of permits issued to server, when server permits expire, obligation of server to attend a course every two years, and server renewal procedures;

ii. objectives of the Responsible Vendor Program, which shall include education of vendors, servers, and their customers about responsible sales, service, and consumption of alcohol and tobacco; and prevention of the misuse, illegal use, and abuse of alcohol;

b. classification of alcohol as a depressant and its effect on the human body, particularly on the ability to drive a motor vehicle:

i. alcohol is a depressant not a stimulant;

ii. how alcohol travels through the body, including how quickly it enters the bloodstream and reaches the brain;

iii. alcohol's effect on a person's ability to drive a motor vehicle, specifically reviewing alcohol's effect on a person's behavior, self-control, and judgment;

iv. outline of Louisiana's driving while intoxicated laws and penalties for violations;

c. effects of alcohol when taken with commonly used prescription and nonprescription drugs:

i. mixing alcohol with other drugs can produce dangerous side effects. It is especially dangerous to drive under the influence of alcohol and other drugs because of the increased impairment due to both;

ii. alcohol and other depressant drugs. Mixing alcohol with other depressants dangerously increases the depressant effect on the body;

iii. alcohol and stimulants. Stimulants do not cancel the intoxication and impairment due to alcohol;

iv. alone, many prescription and nonprescription drugs impair the ability to drive a motor vehicle;

v. the effects of commonly used prescription and nonprescription drugs;

vi. review of the effects of contemporary designer drugs such as GHB and Rohypnol;

d. absorption rate, as well as the rate at which the human body can dispose of alcohol and how food affects the absorption rate:

i. rate at which the human body absorbs alcohol;

ii. blood alcohol concentration (BAC) and how to estimate a person's BAC. Include drink equivalency guidelines;

iii. how the human body disposes of alcohol;

iv. the effect of food on the absorption rate;

v. time is the only real factor that reduces intoxication;

e. methods of identifying and dealing with underage and intoxicated persons, including strategies for delaying and denying sales and service to intoxicated and underage persons:

i. procedures and methods for detecting false identification;

ii. procedures and methods for denying service or entry to underage persons;

iii. procedures and methods for identifying intoxicated persons including behavioral warning signs and other signs of impairment;

iv. procedures and methods for preventing over intoxication;

v. procedures and methods for terminating service to intoxicated persons;

f. state laws and regulations regarding the sales and service of alcoholic beverages for consumption on or off premises:

i. legal forms of identification in Louisiana;

ii. legal age to purchase, possess, and consume alcohol and penalties for violation;

iii. legal age to enter licensed premises and penalties for violation;

iv. legal age to be employed by a vendor and penalties for violation;

v. acts prohibited on licensed premises and penalties for violation;

g. parish and municipal ordinances and regulations that affect the sale and service of alcoholic beverages for

consumption on or off the licensed premises. These provisions will depend on the jurisdiction of the servers attending the class and may vary according to the parish and municipality:

- i. legal hours of operation and Sunday sales;
- ii. noise, litter, and zoning;
- iii. leaving premises with alcohol;
- iv. preemption of parish and municipal server training courses;
- v. parish or municipal server licensing requirements;
- vi. other relevant regulations;
- h. state and federal laws and regulations related to the lawful age to purchase tobacco products and age verification requirements:
 - i. state and federal legal purchasing age;
 - ii. federal age verification requirements;
 - iii. state and federal laws and regulations related to vending machines;
 - iv. state laws related to sign posting requirements;
 - v. state laws related to minimum packaging requirements.

2. Each approved server training course shall include at least two hours of classroom instruction, exclusive of breaks and examination time, and shall be presented in a continuous block of instruction. Classes shall be limited to no more than one 10-minute break per hour.

3. The approved server training course shall be presented in its entirety to each student in a language approved by the program administrator.

4. Each server training course must include an examination approved by the program administrator, which is administered by the trainer immediately following the course presentation. Students shall take the examination in writing, unless special circumstances require an oral examination. With the approval of the program administrator, the test may be offered in a language best understood by the student, or bilingual trainers may, in response to direct inquiries, clarify test questions using another language. Each student shall correctly answer at least 70 percent of the examination questions. Students who receive failing scores may be retested once at a time and place to be determined by the trainer. Otherwise, students must repeat the full course for an additional fee.

5. All training facilities shall meet the requirements of the Americans with Disabilities Act (ADA) and shall have adequate lighting, seating, easily accessible restrooms, and comfortable room temperature.

6. At the beginning of each server training course, the trainer shall give each student:

- a. an enrollment agreement that clearly states the obligations of the trainer and student, refund policies, and procedures to terminate enrollment;
- b. a notice that a student must complete the course in order to take the examination;
- c. a server training workbook, approved by the program administrator, that is current, complete, and accurate. The workbook shall include an outline of the minimum course curriculum, table of contents, titles, subheadings, and page

numbers. Physical specifications must meet the following minimum standards:

- i. minimum dimensions of paper size must be 8½ by 11 inches;
- ii. paper stock, excluding front and back cover, shall be white or near white, and of a quality and weight suitable for reproduction and note-taking with no ink bleed through;
- iii. type must be a minimum of 11-point in a type style commonly used for textbooks and periodicals;
- iv. binding must firmly hold the pages together in correct order and be sufficient for use during the course and as a reference;
- v. professional printing and typesetting are not required, but reproductions must be clear, readable, and letter quality;
- vi. for ease of reading and adequate room for note-taking, white space must be a minimum of 30 percent per page with the print or copy to be no more than 70 percent of the page.

7. No server training class shall include more than 100 students and students that arrive more than 15 minutes after the class begins shall not be admitted.

8. The classroom presentation must be consistent with the approved program.

9. Discussions must be pertinent to responsible beverage alcohol or tobacco sales, service, and consumption.

10. The program administrator or their designee may attend any class to evaluate conformance with the program certified by the program administrator.

11. At least seven days in advance, the approved provider or their authorized trainers shall give written notice to the Office of Alcohol and Tobacco Control of the date, time, and location of all courses scheduled. The Office of Alcohol and Tobacco Control shall be notified by phone or fax of course cancellations prior to the course date except when cancellation cannot be anticipated, in which case notification shall be within three business days of the scheduled course date.

G. Approved Server Training Course Fees. Approved providers may charge fees for the cost of conducting the approved server training courses. The fees shall be approved by the program administrator and the commissioner and may not exceed \$25.

H. Sanctions Against Approved Providers and Trainers. Any approved provider or trainer who violates any of the provisions of Title 26 of the Louisiana Revised Statutes or any of the requirements of Chapter 5 shall:

1. for a first offense receive a notice of intended suspension or revocation of the program administrator's certification or authorization, with 30 days allowed to correct any violations. If the violation is rectified no further action will be taken;
2. if the violation is not rectified or a second violation by the provider or their trainer occurs, the program administrator or their designee shall suspend approval and certification of the provider or trainer for a period not to exceed six months. Before the suspension will be lifted, the provider or trainer shall correct all violations;

3. the program administrator or their designee may increase sanctions based on successive violations within a two-year period. Numerous violations within a two-year period may indicate disregard for the law or failure to provide an acceptable alcohol server education program so as to warrant cancellation of the certification of either the provider or their trainer;

I. Approved Provider Responsible for Acts of Trainers. The program administrator may hold a provider responsible for any act or omission of the provider's program, personnel, trainers, or representatives that violate any law or administrative rule pertaining to approved providers' privileges.

J. Prohibited Conduct. No approved provider or authorized trainer shall:

1. make any false or misleading statement to induce or prevent the program administrator's actions;

2. falsify, alter, or otherwise tamper with alcohol server permits or records;

3. permit a student to refer to any written material or have a discussion with another person during the exam unless the instructor authorizes the student to use an interpreter;

4. permit any student to drink alcoholic beverages or to be under the influence of intoxicants during the course presentation or examination, including breaks;

5. drink alcoholic beverages or be under the influence of intoxicants during the course presentation or examination, including breaks;

6. prohibit, interfere, or fail to assist the program administrator or their designee with scheduling or attendance of on-site observations.

K. Approved Provider and Trainer Advertising and Promotion Standards

1. Approved provider and trainer advertising related to the alcohol server training courses shall include:

a. the approved provider's or trainer's telephone number and cancellation policy;

b. the total amount of course time that includes instruction, examination and breaks;

c. a statement that students shall attend the entire course before taking the examination.

2. Advertising shall not suggest that the state of Louisiana, the program administrator, or any state agency endorses or recommends the approved provider's program to the exclusion of any other program.

3. Upon request, the approved provider or trainer shall give the program administrator copies of program publications, brochures, pamphlets, scripts, etc. or any other representation of advertising materials related to the program.

4. An approved training provider or trainer must have records available to support all advertising claims or representations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 26:931 et seq.

HISTORICAL NOTE: Promulgated by the Department of Revenue, Office of Alcohol and Tobacco Control, LR 24:1950 (October 1998).

Murphy J. Painter
Commissioner

9810#006

RULE

Department of Social Services Office of Family Support

Individual and Family Grant (IFG) Program (LAC 67:III.4704)

The Department of Social Services, Office of Family Support, has adopted Title 67, Part III, Subpart 10, of the *Louisiana Administrative Code*, pertaining to the Individual and Family Grant (IFG) Program.

This rule specifies eligibility of non-citizens for IFG Program assistance. The Federal Emergency Management Agency (FEMA), which governs the IFG Program, promulgated this rule as a result of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, as amended by the Illegal Immigration Reform and Immigration Responsibility Act of 1996, Public Law 104-208. An emergency rule was necessary to effect this regulation subsequent to a federal disaster declaration.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 10. Individual and Family Grant Program Chapter 47. Application, Eligibility, and Furnishing Assistance

Subchapter A. Need and Amount of Assistance

§4704. Special Condition of Eligibility Effective September 23, 1998

Only U.S. citizens, U.S. non-citizen nationals and qualified aliens are eligible for IFG assistance. A qualified alien is defined as:

1. an alien admitted for permanent residence under the Immigration and Nationality Act (INA);

2. an alien granted asylum under §208 of the INA;

3. a refugee admitted to the U.S. under §207 of the INA;

4. an alien paroled into the U.S. under §212(d)(5) of the INA for at least one year;

5. an alien whose deportation is being withheld under §243(h) of the INA as in effect prior to April 1, 1997 or whose removal is being withheld under §241(b)(3) of the INA;

6. an alien granted conditional entry pursuant to §203(a)(7) of the INA as in effect prior to April 1, 1980;

7. an alien who is a Cuban or Haitian entrant, as defined in §501(e) of the Refugee Education Assistance Act of 1980; or

8. an alien who (or whose child or parent) has been battered or subjected to extreme cruelty in the U.S. and otherwise satisfies the requirements of §431(c) of the Act.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193 and P.L. 104-208.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:1953 (October 1998).

Madlyn B. Bagneris
Secretary

9810#059

RULE

**Department of Social Services
Office of Family Support**

Support Enforcement Services
(LAC 67:III.2525)

The Department of Social Services, Office of Family Support has amended Title 67, Part III, Subpart 4, of the *Louisiana Administrative Code* pertaining to Support Enforcement Services (SES), the child support enforcement program.

Pursuant to Public Law 105-33, the Balanced Budget Act of 1997, SES is now cooperating in automated administrative enforcement in interstate cases. Recent program review by the U.S. Department of Health and Human Services, Office of Child Support Enforcement (OCSE), prompted that agency to advise SES to incorporate defining language into LAC 67:III.2525.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 4. Support Enforcement Services

Chapter 25. Support Enforcement

Subchapter F. Cooperation with Other States

§2525. Automated Administrative Enforcement in Interstate Cases

A. SES shall use high-volume, automated administrative enforcement on interstate cases to the same extent as used for intrastate cases. This means the use of automatic data processing to search various state data bases, including license records, employment service data, and state new hire registries, to determine whether information is available regarding a parent who owes a child support obligation.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 24:958 (May 1998), amended LR 24:1954 (October 1998).

Madlyn B. Bagneris
Secretary

9810#060

RULE

**Department of Social Services
Office of Rehabilitation Services**

Community Rehabilitation
Program (LAC 67:VII.Chapter 2)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Social Services, Louisiana Rehabilitation Services adopts the following rule in LAC 67:VII. Rehabilitation Services, Community Rehabilitation Program, Program Standards.

The rule governing Louisiana Rehabilitation Services policy relative to Community Rehabilitation Programs is to establish standards for Community Rehabilitation Program vendors who provide services to clients of Louisiana Rehabilitation Services through the Vocational Rehabilitation Program.

Title 67

SOCIAL SERVICES

Part VII. Rehabilitation Services

Chapter 2. Community Rehabilitation Program

§201. Purpose

A. Principle. The Community Rehabilitation Program (CRP) shall establish its purpose and direct its activities toward accomplishment of that purpose.

B. The CRP shall state its goals and purposes clearly in appropriate publications for distribution to staff, those served, referral and payment sources, and the public.

C. The CRP shall describe the specific rehabilitation needs it is prepared to address as well as the programs and services available for that purpose.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1954 (October 1998).

§203. Organization and Management

A. Licenses. All public and private community rehabilitation programs shall be licensed by the Department of Social Services, Bureau of Licensing or the Department of Health and Hospitals, if applicable, based on the standards developed and published according to state law.

B. General Requirements

1. The CRP shall allow representatives of Louisiana Rehabilitation Services (LRS) and the appropriate program office in the performance of their mandated duties to monitor all aspects of a program's functioning which impact on clients and to interview staff members and clients.

2. The CRP shall make any information which the program is required to have under the present requirements and any information reasonably related to assessment of compliance with these requirements available to LRS and the appropriate program office.

a. The client's rights shall not be considered abridged by this requirement.

b. A CRP shall promptly provide all necessary and needed information for review.

c. A CRP shall provide adequate space and privacy for the surveyor to review records uninterrupted.

C. A CRP shall have an administrative file including:

1. documents identifying the governing body and/or ownership of the agency;

2. list of members and officers of the governing body and their addresses and terms of membership, if applicable;

3. bylaws of the governing body and minutes of formal meetings, if applicable;

4. a written statement of the program's mission and philosophy;

5. documentation of the agency's incorporation in the state;

6. organizational chart of the agency;

7. all leases, contracts and purchase-of-service agreements to which the center is a party;
8. insurance policies;
9. annual budgets;
10. master list of all consultants used by the center.

D. Organization and Administration. The CRP should engage in short-range and long-range planning, and develop or modify its services according to identified community needs and other LRS identified needs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1954 (October 1998).

§205. Governing Body

A. The membership of the governing body shall be representative of the community being served, and include person(s) with disabilities and/or families of person(s) with disabilities; or

B. A CRP has for-profit status, it shall have an advisory board which meets regularly and is representative of the community being served and include person(s) with disabilities and/or families of person(s) with disabilities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§207. Fiscal Accounting Systems and Record Keeping

A. The CRP must maintain adequate fiscal records and accountability so as to demonstrate, upon request, receipt and utilization of funds from LRS. Each CRP must have an annual external audit and management letter and include a single audit where indicated or required by law.

B. The CRP must have adequate insurance to protect persons served.

C. A CRP shall not permit funds to be paid, or committed to be paid, to any corporate person to which any of the members of the governing body, administrative personnel or members of the immediate families or members of the governing body or administrative personnel have any direct or indirect financial interest, or in which any of these persons serve as an officer or employee, unless the services or goods involved are provided at a competitive cost or under terms favorable to the CRP. The CRP shall have a written disclosure of any financial transaction with the agency in which a member of the governing body, administrative personnel or his/her immediate family is involved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§209. Personnel Administration and Staff Development

A. Providers of vocational rehabilitation services shall use qualified personnel, in accordance with any applicable national or state-approved or recognized certification, licensing, or registration requirements, or in the absence of these requirements, other comparable requirements (including state personnel requirements), that apply to the profession or

discipline in which that category of personnel is providing vocational rehabilitation services.

B. The CRP should encourage and support staff growth and development by providing opportunities for training, education and interaction with other persons in the rehabilitation field.

C. Providers of vocational rehabilitation services should take affirmative action to employ and advance in employment qualified individuals with disabilities.

D. The CRP will include among their personnel or make available personnel able to communicate in the native languages of individuals who have limited English proficiency if those native languages are spoken by substantial segments of the population of the state; and provide special modes of communication for individuals who rely on these special modes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§211. Physical Plan and Accessibility

The CRP must comply with accessibility requirements as established in Section 504 of the Rehabilitation Act of 1973, as amended, and by the Uniform Federal Accessibility Standards and the Americans with Disabilities Act of 1990.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§213. Confidentiality and Case Records

A. General

1. All client information is confidential. All personal information in the possession of the CRP shall be used only for purposes directly connected with the administration of the program.

2. A CRP shall have written procedures for the maintenance and security of records specifying who shall supervise the maintenance of records, who shall have custody of records and to whom records may be released. Records shall be the property of the center and the center, as custodian, shall secure records against loss, tampering or unauthorized use.

B. Notification to Clients. Individuals asked to supply the CRP with information concerning themselves shall be informed of the CRP's need to collect confidential information and the policies governing its use, release, and access including:

1. a Consent to Release Case Record Information form contained in case files which must document that individuals have been advised of the confidentiality of information pertinent to their case;

2. the principal purpose for which the CRP intends to use or release the requested data;

3. whether the individuals may refuse, or are legally required to supply the requested data;

4. any known consequence arising from not providing the requested information;

5. the identity of other agencies to which information is routinely released.

C. Release of Confidential Information. The case file must contain documentation concerning any information released with the individual's written consent.

D. No use shall be made of the name or picture of an individual served without the prior written consent of the individual, or his or her legal guardian.

E. Client Access to Data. When requested in writing by the involved individual or an authorized representative, clients or applicants have the right to see and obtain in a timely manner copies of any information that the CRP maintains on them, including information in their case files, except:

1. medical and/or psychological information, when the service provider states in writing that disclosure to the individual would be detrimental to the individual's physical or mental health;

2. medical, psychological, or other information which the CRP determines harmful to the individual;

Note: Such information may not be released directly to the individual, but must be released, with the individual's informed consent, to the individual's representative, or a physician or a licensed or certified psychologist;

3. personal information that has been obtained from another agency or organization. Such information may be released only by or under the conditions established by the other agency or organization.

F. Informed Consent. Informed consent means that the individual has signed an authorization to release information and such authorization is as follows:

1. in a language that the individual understands;
2. dated;
3. specific as to the nature of the information which may be released;
4. specifically designates the parties to whom the information may be released;
5. specific as to the purpose(s) for which the released information may be used;
6. specific as to the expiration date of the informed consent which must not exceed one year.

G. Release of Client Information Without Informed Consent

1. The CRP must have written authorization to release confidential client information except in the following instance:

a. the CRP can release personal information without informed written authorization to protect the client or others when the client poses a threat to his/her safety or to the safety of others;

b. the CRP can only release that information necessary to protect the client or others.

c. the CRP or employee providing the information must carefully record all the facts and circumstances in the client's case record.

2. Examples of Emergency Situations. Emergency situations that might require release of personal information without informed written authorization could possibly include the following:

- a. threats of murder and/or suicide;
- b. threats to the safety of the workplace;

c. national security violations.

H. Confidentiality—HIV Diagnosis. Each time confidential information is released on applicants or clients who have been diagnosed as HIV positive, a specific informed written consent form must be obtained.

I. Location of Records

1. The CRP shall keep on site the following records:

- a. all IPE's and Agency Service Plans;
- b. all client plan updates and progress notes;
- c. all client evaluations;
- d. a copy of the CRP's policy and procedure manual(s);
- e. a copy of the employee's criminal history check.

2. All other records shall be kept in the main office of the CRP, if applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1955 (October 1998).

§215. Available Programs and Program Outcomes

A. Intake and Orientation. The CRP should make a reasonable effort to obtain necessary case file information before planning services for an individual, and make appropriate use of such information throughout the individual's program.

B. Assessment and Program Planning

1. The CRP should review referral information and, using appropriate appraisal and evaluation procedures, determine the individual's need for services.

2. The CRP's policies shall specify that the individual's plan for rehabilitation services will be established with his or her involvement and that it will focus on the individual's achievement of independent functioning in the community and/or achievement or maintenance of the individual's appropriate level of employment outcome or independent functioning.

C. Program Management, Treatment, and Training

1. The CRP shall develop a procedure to insure that services provided each individual are organized, coordinated and reviewed regularly by a program manager or service coordinator.

2. The individual's progress toward the planned goals shall be measured and recorded monthly and communicated to the individual, the referral source, LRS and any other authorized parties.

3. Individually scheduled conferences shall take place on a timely basis to review the progress of the individual served and to develop further plans, if necessary. The results shall be recorded in the case record and communicated to LRS and any other appropriate parties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1956 (October 1998).

§217. Public Relations and Marketing

A. Principle. The CRP shall be actively involved in its community to create acceptance, understanding and support for its goals and services.

RULE

**Department of the Treasury
Board of Trustees of the State
Employees' Retirement System**

Disability Determinations
(LAC 58:I.Chapter 25)

B. The CRP should thoroughly investigate the employment and related needs of its current and future users, and organize its services to meet those needs.

C. The CRP should conduct its activities in a manner that encourages understanding, cooperation and support from the public, from other agencies and from other groups in the community.

D. The CRP should function in the community as an advocate for those it serves by promoting positive attitudes toward them, and developing awareness of their legal rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1956 (October 1998).

§219. Vocational Modules

A. A Vocational Evaluation/Assessment shall utilize professionally accepted methods based on client-specific needs to result in a suitable and appropriate employment goal.

B. A Community Based Situational Assessment shall be client-specific to result in a suitable and appropriate employment goal.

C. Employment Preparation (Job Club, Job Readiness, Job Retention Training, etc.)

1. The employment preparation should be provided according to the needs identified in the evaluation/assessment and IPE.

2. The employment preparation should be provided according to goals that are specific and individualized to meet the demands of the employment goal.

3. The employment preparation should result in skills required for successful placement of the individual into a job in the community based on the designated employment goal.

D. Job Development/Placement

1. Job development and placement of LRS clients should meet the employment goal cited in the IPE.

2. The CRP shall provide documentation of the job development efforts which are consistent with the employment goal on the client's IPE.

3. Client shall be placed into an integrated competitive employment position and be compensated at or above the minimum wage, but not less than the customary or usual wage paid by the employer for the same or similar work performed by individuals who are not disabled.

4. Individuals should be followed in their employment progress for at least 90 days and should be contacted at 6-month and 12-month intervals to ascertain progress.

5. The CRP shall have an 80 percent placement and retention rate of all individuals referred by LRS, for job development and placement.

6. The CRP shall maintain and disseminate client performance information regarding their employment to LRS staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:664.4 and R.S. 36:477.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Rehabilitation Services, LR 24:1957 (October 1998).

Madlyn B. Bagneris
Secretary

9810#058

In accordance with R.S. 49:950 et seq., the Department of the Treasury, Board of Trustees of the Louisiana State Employees' Retirement System (LASERS) has amended and reenacted the following rules revising LAC Title 58, Part I, Chapter 25. These rules set forth the procedures for the administration of the disability program administered by the Board of Trustees of LASERS as established at R.S. 11:212 et seq. and 11:461 and 462.

These rules comply with the above cited statutory law and are enabled by R.S. 11:515. The purpose of the rules is to conform the rules to the current statutory requirements of the program; implement a recertification program for disability retirees as set forth in law; and to establish a rehabilitation and surveillance program for disability retirees.

Title 58

**Part I. Louisiana State Employees' Retirement System
Chapter 25. Disability Determinations**

§2501. Use of a Third-Party Administrator

Wherever in this chapter the term *LASERS* is used, it shall include any Third-Party Administrator (TPA) who, under contract with this system, manages any portion of the disability benefits administered by the Louisiana State Employees' Retirement System (LASERS). Claimants will be advised how to contact the TPA to fulfill their responsibility in supplying the requisite documentation to process their claim.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1957 (October 1998).

§2503. Application for Disability Retirement

A. Applications for disability retirement shall be submitted in accordance with instructions provided to the applicant or applicant's employer by LASERS, and shall be reviewed as follows.

1. Upon receipt of a disability application, LASERS shall verify applicant's eligibility within two (2) business days of receipt of the application.

2. The application; Examining Physician's Report; the Disability Report by Immediate Supervisor; and Report by Applicant's Human Resource Administrator shall be reviewed for completeness.

3. If the application or any of the required forms are incomplete or missing, the applicant shall be notified in writing, and will have ten (10) business days to furnish the requested information. If the applicant fails to comply with this request, the application shall be rejected as ineligible.

B. Whether the applicant is determined to be eligible or ineligible to apply for disability, the applicant shall be notified

in writing by LASERS within ten (10) business days of the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:0000 (October 1998).

§2505. Disability Board Physician's Recommendation

A. LASERS shall determine the appropriate State Medical Disability Board physician to perform the initial medical examination, based on the area of medical specialty most closely related to applicant's disability.

B. If the State Medical Disability Board does not have a physician practicing in the requisite specialty, LASERS shall appoint a physician who practices in the requisite specialty to the Board or as an alternate physician to perform the initial medical examination.

C. If the applicant's condition may be terminal, LASERS shall forward applicant's medical records to the appropriate Board physician for review and recommendation.

D. If the applicant's condition is not potentially terminal, LASERS shall schedule an appointment with the appropriate Board physician. The applicant shall be notified of the appointment date and time in writing. The initial examination shall be completed within six (6) weeks of the date the completed disability application is received and eligibility is verified by LASERS.

E. LASERS shall pay the cost of the initial examination, including cost of laboratory tests, x-rays, and other direct examination procedures. If the applicant fails to appear for this examination and the physician charges a cancellation fee, the applicant shall be responsible for this fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1957 (October 1998).

§2507. Final Determination

A.1. LASERS shall review the Disability Board physician's recommendation and based on that recommendation, either approve, or disapprove the application. An applicant shall be considered as certified totally disabled when the Board physician declares the applicant to be totally incapacitated for the further performance of the normal duties of the job and states that such incapacity is likely to be permanent. In all cases, the examining physician shall make a recommendation if the application should be approved or disapproved. If the physicians recommendation is unclear, the file shall be forwarded to the disability manager for review. The disability manager shall contact the Board physician for clarification of the recommendation.

2. If a correction officer, probation or parole officer, or security officer of the Department of Public Safety and Corrections, or an employee of the enforcement division in the Department of Wildlife and Fisheries is found to be permanently totally or partially disabled the applicant shall be

entitled to a disability retirement benefit in accordance with either R.S. 11:212 B. or 214, as applicable.

B. If the disability manager cannot make a clear determination, the file shall be sent to LASERS' Executive Director, who shall contact the Board examining physician for clarification, or another State Medical Board physician for consultation, or an appointed alternate physician shall be consulted when necessary.

C. Any unusual applications shall immediately be presented to the Executive Director for his review and determination on how it should best be handled.

D. When the final determination is made, the applicant shall be notified in writing and a copy shall be forwarded to applicant's agency.

E. A final determination shall be made within One Hundred and Twenty (120) days from the date the completed application is verified by LASERS.

F. Disability benefits shall accrue from the date the application was filed or from the day following exhaustion of all sick leave or annual leave claimed by applicant, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:000 (October 1998).

§2509. Contesting Board Physician's Determination

A. If the certification of the examining physician is contested by either the applicant or LASERS, the contesting party shall have the right to a second medical examination if a written appeal is filed within thirty 30 days of notification of the initial determination.

B. The second examination shall be performed by a State Disability Board Physician, or appointed alternate physician. LASERS shall schedule the appointment and notify the applicant of the time and place of the second examination in writing.

C. The cost of the second examination shall be paid by the contesting party. If the applicant fails to appear for this examination and the physician charges a cancellation fee, the applicant shall be responsible for this fee.

D. If the second physician concurs in the findings and recommendations of the first physician, the original decision shall stand as final and binding on the parties.

E. If the second physician disagrees with the first physician's finding and recommendation, the two physicians shall select a third physician to conduct another examination. The findings and recommendations of the third physician shall be binding, and the cost of the third physician shall be paid by LASERS if the applicant is certified disabled, or by the applicant if the disability claim is denied. If the applicant fails to appear for this examination and the physician charges a cancellation fee, the applicant shall be responsible for this fee.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1958 (October 1998).

§2511. Judicial Appeal

The applicant has the right to appeal the decision that applicant is not entitled to a disability retirement to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within 30 days of the receipt of the final medical decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998).

§2513. Certification of Continuing Eligibility

A. LASERS requires a disability retirees to undergo a medical examination once each year during the first five years following the disability retirement, and once in every three-year period thereafter until the retiree has reached the equivalent age of regular retirement, unless the medical evidence shows conclusively that the disability retiree cannot recover from the disability.

B. LASERS shall schedule the appointment with a State Medical Board or appointed alternate physician and notify the disability retiree of the appointment time and place in writing. The disability retiree must pay the cost of this examination. If the retiree fails to appear for this examination and the physician charges a cancellation fee, the retiree shall be responsible for this fee.

C. The disability retiree shall be notified in writing of the physician's determination.

D. If the physician does not recommend continuing disability, the disability retiree has the same appeal rights as the original applicant as set forth in §2509 herein.

E. If the disability retiree refuses to submit to the examination, his benefit shall be discontinued until he agrees to the examination. The benefit will be discontinued thirty (30) days after written notification to the disability retiree. If the refusal continues for one year, all of the retiree's rights in and to the disability benefit shall be revoked.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998).

§2515. Limitation on Earnings

A. If a disability retiree is gainfully employed, the amounts of the retiree's earnings are limited; the total amount of earnings plus the disability benefit cannot exceed his final average compensation.

B. For purposes of computing this limitation, an annual cost-of-living adjustment to the final average compensation shall be made based on the Federal Consumer Price Index for the preceding calendar year.

C. The disability retiree must notify LASERS immediately if the retiree becomes employed and the retiree's earnings will exceed the limitation.

D. Each disability retiree shall submit a notarized annual statement of earned income for the previous calendar year. The statement must be submitted no later than May 1, of each calendar year, otherwise the benefit will be discontinued

effective June 1 of that calendar year, without retroactive reimbursement, until the statement is filed. If a disability retiree refuses to submit the statement for the remainder of the calendar year, all the retiree's rights in and to the disability retirement shall be revoked.

E. If the earnings limit is exceeded, future benefits shall be reduced to recover the amount of excess earnings. The disability retiree shall be notified in writing of the reduced amount at least 30 days prior to the reduction taking effect.

F. If it is determined that a disability retiree is engaged in gainful occupation which places the retiree over the earnings limit, then the amount of the disability benefit shall be reduced to an amount within the retiree's earnings limit. Should the retiree's earning capacity later change, the disability benefit may be further modified in accordance with R.S. 11:221.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998).

§2517. Report to the Board of Trustees

A. The approved applicants' names shall be provided to the Board in addition to the monthly retirement supplement for the Board's ratification.

B. The Board shall receive a summary report of the number of applications received, the number approved, the number disapproved, a summary of the types of disabilities, the average age of approved applicants, the average number of years of state service, and the agencies of the applicants annually in March for the previous calendar year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 24:1959 (October 1998).

§2519. Appointment of Physicians to the State Medical Disability Board

Physicians may be appointed to the State Medical Disability Board or as an alternate physician by the Executive Director. Such appointments shall be subject to ratification by the Board of Trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 24:1959 (October 1998).

§2521. Rehabilitation

A. In accordance with R.S. 11:462, LASERS shall make a determination whether a disability retiree will benefit from rehabilitation, to the extent that the rehabilitation will permit the disability retiree to perform the normal duties required by the job from which the retiree is collecting disability benefits, in accordance with the following procedures.

1. A case manager shall meet with the disabled employee to assess the needs and disability status.

2. The evaluation shall include discussions with health care professionals to determine if this disability retiree would benefit from rehabilitation.

3. After all aspects of the disabled retiree's situation have been reviewed, the development of an individualized rehabilitation program shall be developed. This plan shall spell out the course of action intended to be taken to rehabilitate the disabled retiree.

4. When the rehabilitation plan has been developed, the plan shall be submitted to LASERS' Executive Director for approval.

5. Once the rehabilitation plan is approved the case manager will be responsible for monitoring, evaluating, and following through on the plan.

B. If it is determined that rehabilitation will benefit a disability retiree under §2521, participation in the rehabilitation program shall be mandatory.

C. Once the disabled retiree successfully completes the rehabilitation plan, the disability retiree shall be scheduled for a certification of continuing eligibility in accordance with §2513 herein.

D. LASERS cannot guarantee employment once rehabilitation is complete.

E. If a disability retiree participates in the rehabilitation program and cannot be rehabilitated to perform the normal duties of the retiree's job from which the retiree is disabled, but is rehabilitated to the extent that the retiree can perform certain gainful occupation and the disability retiree is employed in such an occupation, the wages earned by this disability retiree shall be subject to §2515 herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 24:1959 (October 1998).

§2523. Surveillance

In order to insure that a disability retiree is entitled to the benefit the retiree is receiving, when reasonable suspicion exist that the disability retiree is not permanently disabled, LASERS may initiate surveillance of the disability retiree. If the surveillance indicates that the disability retiree is not currently disabled, LASERS shall require the disability retiree to undergo a certification of continuing eligibility in accordance with §2513 herein.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 24:1960 (October 1998).

§2525. Termination of Benefits

A. Upon receipt of a final medical determination that a disability retiree is no longer disabled as a result of the failure to obtain a certification of continuing eligibility the retiree shall have the right to appeal the medical determination under §2509 herein.

B. The disability retiree has the right to appeal this decision to the Nineteenth Judicial District Court, Parish of East Baton Rouge. This appeal shall be filed within thirty (30) days of the receipt of the Board's decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 24:1960 (October 1998).

§2527. Notices

All notices required to be given under Chapter 25 shall be given as follows:

1. If a disability retiree, the notice shall be given with the retiree's benefit check. If the retiree is receiving his benefit through an electronic fund transfer (EFT), the EFT shall be discontinued for the month notice is required and the retiree shall receive a paper check for that month; or

2. If no benefit is being paid by LASERS, the notice shall be by certified mail, return receipt requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 24:1960 (October 1998).

§2529. Conversion to Regular Retirement

In accordance with R.S. 11:217, when a disability retiree vest in a regular retirement benefit under R.S. 11:441, except R.S. 11:441(4), the disability retiree shall be converted to a regular retiree upon attaining the normal vested retirement age and shall receive the full vested benefit. The retiree shall have the option to, but not be required, to select the regular retirement benefit under R.S. 11:441(4) in lieu of a disability retirement benefit if the retiree qualifies for the benefit under R.S. 11:441(4).

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 24:1960 (October 1998).

James O. Wood
Executive Director

9810#014

RULE

Department of the Treasury Bond Commission

Expedited Review Procedure for Movables
(LAC 71:III.1101, 1103, 1105, and 1107)

In accordance with the provisions of Administrative Procedure Act, R.S. 49:950 et seq., the Louisiana State Bond Commission amends the commission's rules as originally adopted November 20, 1976.

Pursuant to the provisions of R.S. 39:1410.60(B), the State Bond Commission has adopted the following rule regarding expedited review of purchases of movables.

Title 71

TREASURY

Part III. Bond Commission

Chapter 11. Expedited Review of Financings of Movables

§1101. Purpose

The provisions of this rule on expedited review of financing purchases of movables shall be applicable to such purchases that meet the criteria set forth in LAC 71:III.1103.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.60(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Bond Commission, LR 24:1960 (October 1998).

§1103. Criteria

In order for the proposed financing to be eligible for the expedited review process, all of the following criteria must be met and certified in writing by an authorized agent of the governmental entity seeking approval under the expedited review process.

1. The movables must be specifically identified in the resolution and the funds must be used to acquire movable property necessary to provide essential governmental services such as those related to safety, sanitation, road and highway construction and repair, health services, communication, education, and transportation.

2. The governmental entity must have excess or sufficient revenues to cover annual debt service according to the provisions of R.S. 33:2921.

3. The total amount of the indebtedness cannot exceed the greater of \$100,000 or 10 percent of the governmental entity's annual revenues.

4. There must have been no default on any debt obligation within the previous five years.

5. The provisions of the public bid law, to the extent applicable, have been complied with.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.60(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Bond Commission, LR 24:1961 (October 1998).

§1105. Documentation

The governmental entity shall submit the following documents for approval under this rule.

1. The resolution of the governmental entity authorizing the indebtedness.

2. A copy of the governmental entity's current budget, showing budgeted excess revenues pursuant to R.S. 33:2921.

3. A certification from the governmental entity in the form approved by the commission, attesting to compliance with all the requirements of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.60(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Bond Commission, LR 24:1961 (October 1998).

§1107. Procedures

A. On an as needed basis the staff of State Bond Commission shall mail to the commission members a notice of all such requests submitted to the commission staff that meet the criteria for approval under the rule, and that are scheduled for approval by the executive director. Each borrowing so submitted shall be approved by the executive director of the State Bond Commission 10 days following the mailing of the notice unless a member of the commission, prior to approval by the executive director, requests that the financing be placed on the agenda at the next Bond Commission meeting.

B. If any member of the commission requests that a financing submitted to the staff under the provisions of this rule be placed on the agenda, such financing shall be placed on the agenda for consideration at the next commission meeting in accordance with the commission's rules and regulations.

C.

CERTIFICATION OF COMPLIANCE WITH CRITERIA FOR APPROVAL OF FINANCING OF MOVABLES UNDER EXPEDITED PROCEDURE

Name of Entity: _____
Equipment to be Purchased: _____
Term of Financing: _____
Amount of Financing: _____
Interest Rate: _____
Maximum Annual Debt Service: _____

BEFORE ME, the undersigned authority, personally came and appeared _____ who declared that he/she is the _____ for the _____ and does hereby certify that:

The proposed financing is being entered into for the purpose of acquiring movable property necessary to provide essential governmental services, more specifically the following:

The borrower has sufficient revenues to repay the loan pursuant to the provisions of R.S. 33:2921.

The total amount of financing does not exceed the greater of \$100,000 or 10 percent of the borrower's annual revenues.

The provisions of the public bid law, to the extent applicable, have been complied with.

The borrower has not been in default on any debt obligation within the previous five years.

The following documents are attached:

- 1. the Resolution of the borrower.
- 2. a copy of the borrower's annual budget.

Public Official

Sworn to and subscribed before me, this _____ day of _____, at _____, Louisiana.

Notary Public

AUTHORITY NOTE: Promulgated in accordance with R.S. 39:1410.60(B).

HISTORICAL NOTE: Promulgated by the Department of Treasury, Bond Commission, LR 24:1961 (October 1998).

Ken Duncan
State Treasurer and Chairman

9810#038

RULE

**Department of the Treasury
Deferred Compensation Commission**

Comprehensive Rule Revisions
(LAC 71:VII.Chapters 1-17)

The Louisiana Public Employees Deferred Compensation Plan (the "Plan") was adopted by the Louisiana Deferred Compensation Commission (the commission), effective September 15, 1982. The Plan was established in accordance with Louisiana R.S. 42:1301-1308, and §457 of the *Internal Revenue Code of 1986*, as amended, for the purpose of providing supplemental retirement income to employees and independent contractors by permitting such individuals to defer a portion of compensation to be invested and distributed in accordance with the terms of the Plan.

Effective January 1, 1999, the commission hereby repeals the Plan in its entirety and promulgates the following rules in *Louisiana Administrative Code* format. The restated Plan supersedes all plans and rules previously adopted in

connection with the Louisiana Public Employees Deferred Compensation Plan.

Title 71
TREASURY

Part VII. Public Employees Deferred Compensation
Chapter 1. Administration

§101. Definitions

Administrator or Plan Administrator—the person, persons or entity appointed by the Louisiana Deferred Compensation Commission to administer the Plan pursuant to LAC 71:VII.103, if any.

Beneficiary—the person, persons or entities designated by a participant pursuant to LAC 71:VII.301.A.4.

Commission—the Louisiana Deferred Compensation Commission, as established in accordance with R.S. 42:1302, which shall be comprised of the state treasurer, the commissioner of Administration, the commissioner of Insurance, the commissioner of Financial Institutions (or their designees), and three participant members (elected by the participants).

Compensation—all payments paid by the employer to an employee or independent contractor as remuneration for services rendered, including salaries and fees.

Custodial Account—the account established with a bank or trust company meeting the provisions of *Internal Revenue Code* (IRC) §401(f), that the commission has elected to satisfy the trust requirement of IRC §457(g) by setting aside plan assets in a custodial account.

Custodian—the bank or trust company selected by the commission to hold Plan assets pursuant to IRC §§457(g) and §401(f).

Deferred Compensation—the amount of compensation not yet earned, which the participant and the commission mutually agree, shall be deferred.

Employee—any individual, including an individual who is elected or appointed, providing personal services to the employer, provided, however, that an independent contractor shall not be treated as an employee.

Employer—the state of Louisiana. *Employer* shall also mean any political subdivision of the state and any agency or instrumentality of the state or of a political subdivision of the state that has selected this Plan as their eligible IRC §457 Deferred Compensation Plan.

Includible Compensation—(for purposes of the limitation set forth in LAC 71:VII.303) compensation for services performed for the employer that is currently includible in the participant's gross income for federal income tax purposes, determined without regard to any community property laws. *Includible compensation* thus does not include compensation excludable from the participant's gross income under IRC §457 as a result of deferrals under this Plan, or any other eligible deferred compensation plan described in IRC §457(b) maintained by the employer, or under any other provision (including, but not limited to, IRC §§125, 402(g)(3), 402(h)(1)(B), 403(b) and 911).

Independent Contractor—an individual (not a corporation, partnership, or other entity), who is receiving compensation for services rendered to or on behalf of the employer in

accordance with a contract between such individual and the employer.

Interest or Interest in Deferred Compensation—under the plan, the aggregate of:

1. a participant's deferred compensation for his or her entire period of participation in the Plan; and
2. the earnings or losses allocable to such amount. Such interest represents an accounting entry only and does not constitute an ownership interest, right or title in the assets so invested.

IRC—the *Internal Revenue Code of 1986*, as amended, or any future United States Internal Revenue law. References herein to specific section numbers shall be deemed to include Treasury regulations thereunder and to corresponding provisions of any future United States internal revenue law.

Investment Product—any form of investment designated by the commission for the purpose of receiving funds under the Plan.

Normal Retirement Age—

1. the age designated by a participant, which age shall be between:
 - a. the earliest date on which such participant is entitled to retire under the public retirement system of which that participant is a member without actuarial reduction in his or her benefit, and
 - b. age 70½, provided, however, that if a participant continues in the employ of the employer beyond 70½, *normal retirement age* means the age at which the participant separates from service.
2. If the participant is not a member of any public retirement system, the participant's *normal retirement age* may not be earlier than age 55.

Participant—an individual who is eligible to defer compensation under the Plan, and has executed an effective deferral authorization. *Participant* also includes an employee or independent contractor who has separated from service but has not received a complete distribution of his or her interest in deferred compensation under the Plan.

Participation Agreement—the agreement executed and filed by an individual who is eligible to defer compensation under the Plan, and has executed an effective deferral authorization.

Pay Period—a regular accounting period designated by the employer for the purpose of measuring and paying compensation earned by an employee or independent contractor.

Plan—the Louisiana Public Employees Deferred Compensation Plan established by this document and any applicable amendment.

Plan Year—the calendar year.

Separation from Service or Separates from Service—

1. with respect to an employee, the permanent severance of the employment relationship with the employer on account of such employee's:
 - a. retirement;
 - b. discharge by the employer;
 - c. resignation;
 - d. layoff; or
 - e. in the case of an employee who is an appointed or elected officer, the earlier of:

i. the taking of the oath of office of such officer's successor, or

ii. the cessation of the receipt of compensation.

2. If an employee incurs a break in service for a period of less than 30 days or transfers among various Louisiana governmental entities, such break or transfer shall not be considered a *separation from service*.

3. With respect to an independent contractor, *separation from service* means that the expiration of all contracts pursuant to services performed for or on behalf of the employer.

Total Amount Deferred—with respect to each participant, the sum of all compensation deferred under the Plan (plus investment gains and/or losses thereon, including amounts determined with reference to life insurance policies) calculated in accordance with the method designated in the participant's participation agreement(s) under which such compensation was deferred and any subsequent election(s) to change methods, less the amount of any expenses or distributions authorized by this Plan.

Trustee—the commission or such other person, persons or entity selected by the commission who agrees to act as *trustee*. This term also refers to the person holding the assets of any custodial account or holding any annuity contract described in LAC 71:VII.317.

Unforeseeable Emergency—severe financial hardship to a participant resulting from a sudden and unexpected illness or accident of the participant or of a dependent [as defined in IRC §152(a)] of the participant; loss of the participant's property due to casualty; or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant.

The need to send a participant's child to college or the desire to purchase a home shall not constitute an *unforeseeable emergency*. Whether a hardship constitutes an *unforeseeable emergency* under IRC §506 shall be determined in the sole discretion of the commission.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1962 (October 1998).

§103. Commission Authority

The commission shall have full power and authority to adopt rules or policies required to implement the Plan and to interpret, amend or repeal any such rule or policy. In addition, the commission shall have full power and authority to administer the Plan or to arrange for the administration of the Plan through appropriate contracts or agents in accordance with applicable state law. The power and authority of such agents shall be limited to the powers enumerated in the contractual agreements between the commission and such agents.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1963 (October 1998).

§105. Duties of Commission

The duties shall include:

1. appointing one (or more) attorney, accountant, actuary, custodian, record keeper or any other party needed to administer the Plan;

2. directing the trustee or custodian with respect to payments from assets held in the Plan;

3. communicating with employees regarding their participation and benefits under the Plan, including the administration of all claims procedures;

4. filing any returns and reports with the Internal Revenue Service or any other governmental agency;

5. reviewing and approving any financial reports, investment reviews, or other reports prepared by any party appointed under §105.A.1;

6. establishing a funding policy and investment objectives consistent with the purposes of the Plan;

7. construing and resolving any question of Plan interpretation. The commission's interpretation of Plan provisions (including eligibility and benefits under the Plan) is final;

8. appointing an emergency committee comprised of three individuals. Applications for a withdrawal of deferred compensation based on an unforeseeable emergency shall be approved or disapproved by such committee.

a. A participant shall furnish medical or other evidence to the emergency committee to establish and substantiate the existence of an unforeseeable emergency.

b. If an application for a withdrawal based on unforeseeable emergency is approved, the amount of the withdrawal shall be limited to the amount required to meet such emergency. Payment shall not be made to the extent such emergency is relieved:

i. through reimbursement or compensation by insurance or otherwise;

ii. by the liquidation of the participant's assets, provided the liquidation does not cause a financial hardship; or

iii. by the revocation of the participant's deferral authorization.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1963 (October 1998).

§107. Administrative Fees and Expenses

The commission may, in its sole discretion, use one or more of the following methods to meet the costs of administering the Plan. The commission may:

1. establish a reasonable monthly or annual administrative charge;

2. deduct an allocable portion of administrative costs from deferred compensation;

3. deduct an allocable portion of administrative costs from the income or earnings of investment products;

4. authorize any duly-appointed administrator to accept commissions from providers of investment products,

provided, however, that the amount of such commissions may not exceed the amount of similar commissions paid to unrelated third parties;

5. deduct administrative costs from funds on deposit in financial institutions; and/or

6. deduct any other reasonable fee or commission required to defray the costs of administering the Plan.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1963 (October 1998).

§109. Actions of Administrator

Every action taken by the commission shall be presumed to be a fair and reasonable exercise of the authority vested in or the duties imposed upon it. The commission shall be deemed to have exercised reasonable care, diligence and prudence and to have acted impartially as to all affected persons, unless the contrary is proven by affirmative evidence. No member, if a participant of the commission or a committee, shall make any determination (other than a policy decision which affects all participants) similarly situated with respect to his or her specific interest in deferred compensation under the Plan. The commission shall not be liable for amounts of compensation deferred by participants or for other amounts payable under the Plan.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998).

§111. Delegation

Subject to any applicable laws and any approvals required by the employer, the commission may delegate any or all of its powers and duties hereunder to another person, persons, or entity, and may pay reasonable compensation for such services as an administrative expense of the Plan, to the extent such compensation is not otherwise paid.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998).

Chapter 3. Plan Participation, Options and Requirements

§301. Enrollment in the Plan

The following rules apply to compensation deferred under the Plan.

1. A participant may not defer any compensation for a calendar month unless a deferral authorization providing for such deferral has been completed by the participant and accepted by the commission prior to the beginning of such month. With respect to a new employee, compensation will be deferred in the calendar month during which a participant first becomes an employee if a deferral authorization providing for such deferral is executed on or before the first day on which the participant becomes an employee.

2. In signing the Participation Agreement, the participant elects to participate in this Plan and consents to the deferral by the employer of the amount specified in the Participation Agreement from the participant's gross

compensation for each pay period. Such deferral shall continue in effect until modified, disallowed or revoked in accordance with the terms of this Plan.

3. The minimum amount of compensation deferred under a deferral authorization shall be no less than \$20 each month; provided, however, that such minimum deferral shall not apply to a participant whose deferral authorization (or similar form) in effect on October 1, 1984, permitted a smaller deferral, or to a participant who elects to defer not less than 7.5 percent of compensation (voluntary and/or involuntary contributions) in lieu of Social Security coverage (§11332 of the Social Security Act and IRC §3121). The employer retains the right to establish minimum deferral amounts per pay period and to limit the number and/or timing of enrollments into the Plan in the Participation Agreement.

4. Beneficiary. Each participant shall initially designate in the Participation Agreement a beneficiary or beneficiaries to receive any amounts which may be distributed in the event of the death of the participant prior to the complete distribution of benefits. A participant may change the designation of beneficiaries at any time by filing with the commission a written notice on a form approved by the commission. If no such designation is in effect on the participant's death, or if the designated beneficiary does not survive the participant by 30 days, his beneficiary shall be his surviving spouse, if any, and then his estate.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998).

§303. Deferral Limitations

A. Except as provided in LAC 71:VII.305, the maximum that may be deferred under the Plan for any taxable year of a participant shall not exceed the lesser of:

1. \$7,500, as adjusted for cost-of-living in accordance with IRC §457(e)(15) for taxable years beginning after December 31, 1996; or

2. 33a percent of the participant's includible compensation, each reduced by any amount specified in LAC 71:VII.303.B that taxable year.

B. The deferral limitation shall be reduced:

1. for a participant who also participates in a rural cooperative plan [as defined in IRC §401(k)(7)] and for taxable years of any other participant beginning before January 1, 1989, any amount excludable from the participant's gross income under IRC §403(b) on account of employer contributions; or

2. in all other cases, any amount excludable from the participant's gross income attributable to elective deferrals to another eligible deferred compensation plan described in IRC §457(b), elective deferrals or employer contributions to an annuity program described in IRC §403(b), elective deferral to a qualified cash or deferred arrangement described in IRC §401(k) or to any simplified employee pension plan described in IRC §408(k) or Simple Retirement Account described in IRC §408(p), or any amount contributed on behalf of the participant to an organization described in IRC §501(c)(18).

At the time of initial enrollment and at all times thereafter, the participant must notify the commission of any

amounts of income deferred under the plans listed in §303.B.1 and 2., or any subsequent changes in participation in any other such program.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1964 (October 1998).

§305. Limited Catch-up

For one or more of the participant's last three taxable years ending before the taxable year in which normal retirement age under the Plan is attained, the maximum deferral shall be the lesser of:

1. \$15,000, reduced by any applicable amount specified in LAC 71:VII.303.B for that taxable year; or
2. the sum of:
 - a. the limitations established for purposes of §303 of these rules, for such taxable year (determined without regard to this §305), also
 - b. so much of the limitation established under §303 of the Plan or established in accordance with IRC §457(b)(2) and the regulations thereunder under an eligible deferred compensation plan sponsored by an entity other than the employer and located in the same state for prior taxable years (beginning after December 31, 1978 and during all or any portion of which the participant was eligible to participate in this Plan) and has not theretofore been used under §§303 or 305 hereof or under such other plan (taking into account the limitations under and participation in other eligible deferred compensation plans in accordance with the *Internal Revenue Code*); provided, however, that this §305 shall not apply with respect to any participant who has previously utilized, in whole or in part, the limited catch-up under this Plan or under any other eligible deferred compensation plan (within the meaning of IRC §457 and the regulations thereunder).

If a participant is not a member of a public retirement system, normal retirement age may not be earlier than age 55.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998).

§307. Participant Modification of Deferral

A participant shall be entitled to reduce the amount (or percentage) of deferred compensation once each calendar quarter. A participant shall be entitled to increase the amount (or percentage) of deferred compensation at any time during a calendar year, with respect to compensation payable no earlier than the calendar month after such modification is executed by the participant and accepted by the commission.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998).

§309. Employer Modification of Deferral

A. The commission shall have the right to modify or disallow the periodic deferral of compensation elected by the participant:

1. in excess of the limitations stated in LAC 71:VII.303 and 305;

2. in excess of the participant's net compensation for any pay period;

3. upon any change in the length of pay period utilized by employer. In such case the periodic deferral shall be adjusted so that approximately the same percentage of pay shall be deferred on an annual basis;

4. in order to round down periodic deferrals to the nearest whole cent amount;

5. to reduce the future deferrals in the event that the amount actually deferred for any pay period exceeds, for any reason whatsoever, the amount elected by the participant. In the alternative, such amount of excess deferral may be refunded to the participant. No adjustment in future deferrals shall be made if a periodic deferral is missed or is less than the amount elected, for any reason whatsoever; or

6. if the deferral elected for any pay period is less than the minimum amount specified in LAC 71:VII.301.A.3;

B. The employer and the commission shall have no liability to any participant or beneficiary with respect to the exercise of, or the failure to exercise, the authority provided in this §309.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998).

§311. Revocation

A. A participant may, at any time, revoke his or her deferral authorization by notifying the commission, in writing, on forms acceptable to the commission. Upon the acceptance of such notification, deferrals under the plan shall cease no later than the commencement of the first pay period beginning at least 30 days after acceptance; provided, however, that the commission shall not be responsible for any delay which occurs despite its good faith efforts. In no event shall the revocation of a participant's deferral authorization permit a distribution of deferred compensation, except as provided in Chapter 7 of these rules and shall be subject to the terms and provisions of the affected investment.

B. A participant's request for a distribution in the event of an unforeseeable emergency shall in addition be treated as a request for revocation of deferrals as of a date determined by the commission.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998).

§313. Re-enrollment

A. A participant who revokes the Participation Agreement as set forth in §311 above may execute a new Participation Agreement to defer compensation payable no earlier than the calendar month after such new Participation Agreement is executed by the participant and accepted by the commission.

B. A former participant who is rehired after retirement may rejoin the Plan as an active participant unless ineligible to participate under other Plan provisions. If the rehired participant has commenced receiving distribution, the distribution may not be suspended during the period of re-employment, nor may the amounts received in the distribution

be deferred again by reason of rejoining the Plan. If the rehired participant has not commenced receiving distribution, the irrevocable election shall be treated null and void.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1965 (October 1998).

§315. Multiple Plans

Should a participant participate in more than one deferred compensation plan governed by IRC §457, the limitations set forth in LAC 71:VII.303 and 305 shall apply to all such plans considered together. For purposes of LAC 71:VII.303 and 305, compensation deferred shall be taken into account at its value in the later of the plan year in which deferred or the plan year in which such compensation is no longer subject to a substantial risk of forfeiture (within the meaning of IRC §457).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998).

§317. Custody of Plan Assets

All amounts of compensation deferred under the Plan, all property and rights purchased with such amounts, and all income attributable to such amounts, property or rights shall be held for the exclusive benefit of participants and their beneficiaries. The trust requirement of IRC §457(g) shall be satisfied as Plan assets and shall be set aside as follows.

1. Plan assets shall be set aside in one or more annuity contracts described in IRC §401(f). The owner of the annuity contract is the "deemed trustee" of the assets invested under the contract for purposes of IRC §457(g).

2. Plan assets shall be set aside in one or more custodial accounts described in IRC §401(f). The bank or trust company shall be the custodian and "deemed trustee" for purposes of IRC §457(g) and shall accept such appointment by executing same. The commission and custodian must enter into a separate written custody agreement.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998).

§319. Qualified Military Service

Notwithstanding any provision of this Plan to the contrary, contributions and benefits with respect to qualified military service shall be provided in accordance with IRC §414(u).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998).

Chapter 5. Investments

§501. Investment Options

A. The commission shall in its sole discretion select certain investment options to be used to determine income to be accrued on deferrals. These investment options may include specified life insurance policies, annuity contracts, or investment media issued by an insurance company. In any

event, it shall be the sole responsibility of the commission to ensure that all investment options offered under the Plan are appropriate and in compliance with any and all state laws pertaining to such investments.

B. The commission shall have the right to direct the trustee with respect to investments of the Plan assets, may appoint an investment manager to direct investments, or may give the trustee sole investment management responsibility. Any investment directive shall be made in writing by the commission or investment manager. In the absence of such written directive, the trustee shall automatically invest the available cash in its discretion in an appropriate interim investment until specific investment directions are received. Such instructions regarding the delegation of investment responsibility shall remain in force until revoked or amended in writing. The trustee shall not be responsible for the propriety of any directed investment made and shall not be required to consult with or advise the commission regarding the investment quality of any directed investment held hereunder.

C. The commission may, from time to time, change the investment options under the Plan. If the commission eliminates a certain investment option, all participants who had chosen that investment shall select another option. If no new option is selected by the participant, money remaining in the eliminated investment option shall be moved at the direction of the commission. The participants shall have no right to require the commission to select or retain any investment option. To the extent permitted by and subject to any rules or procedures adopted by the administrator, a participant may, from time to time, change his choice of investment option. Any change with respect to investment options made by the commission or a participant, however, shall be subject to the terms and conditions (including any rules or procedural requirements) of the affected investment options and may affect only income to be accrued after that change.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998).

§503. Participant Investment Direction

A. Participants shall have the option to direct the investment of their personal contributions and their share of any employer contributions among alternative investment options established as part of the overall Trust, unless otherwise specified by the employer. Such investment options shall be under the full control of the trustee. A participant's right to direct the investment of any contribution shall apply only to making selections among the options made available under the Plan.

B. Each participant shall designate on his or her Participation Agreement the investment that shall be used to determine the income to be accrued on amounts deferred. If the investment chosen by the participant experiences a gain, the participant's benefits under the Plan likewise shall reflect income for that period. If the investment chosen by a participant experiences a loss, or if charges are made under

such investment, the participant's benefits under the Plan likewise shall reflect such loss or charge for that period.

C. Neither the commission, the administrator, the trustee nor any other person shall be liable for any losses incurred by virtue of following the participant's directions or with any reasonable administrative delay in implementing such directions.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1966 (October 1998).

§505. Participant Accounts

A. The commission shall maintain or cause to be maintained a deferred compensation ledger account or similar individual account for each participant. At regular intervals established by the commission, each participant's account shall be:

1. credited with the amount of any deferred compensation paid into the Plan;
2. debited with any applicable administrative or investment expense, allocated on a reasonable and consistent basis;
3. credited or debited with investment gain or loss, as appropriate; and
4. debited with the amount of any distribution.

B. At least once per calendar quarter, each participant shall be notified in writing of his/her total amount deferred.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998).

§507. Distributions from the Plan

The payment of benefits in accordance with the terms of the Plan may be made by the trustee, or by any custodian or other person so authorized by the commission to make such distribution. Neither the commission, the trustee nor any other person shall be liable with respect to any distribution from the Plan made at the direction of the employer or a person authorized by the employer to give disbursement direction.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998).

Chapter 7. Distributions

§701. Conditions for Distributions

Payments from the Plan to the participant or beneficiary shall not be made, or made available, earlier than:

1. the participant's separation from service pursuant to LAC 71:VII.703 or death; or
2. the participant's account meets all of the requirements for an in-service *De Minimus* distribution pursuant to LAC 71:VII.709; or
3. the participant incurs an approved unforeseeable emergency pursuant to LAC 71:VII.711.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998).

§703. Separation from Service

Distributions to a participant shall commence no earlier than 61 days following the date in which the participant separates from service, in a form and manner determined pursuant to LAC 71:VII.715 and 717, unless a deferred commencement date is elected in accordance with §705 of these rules.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998).

§705. Deferred Commencement Date at Separation from Service

A. No later than 60 days following the date in which the participant separates from service, the participant shall elect a deferred commencement date for all or a portion of the participant's account balance. Except as specified in LAC 71:VII.707, such election shall be irrevocable. If the participant elects to defer the entire account balance, the future commencement date may not be later than April 1 of the calendar year following the calendar year in which the participant attains age 70½. If the participant elects to receive only a portion of the account, the future date elected to begin receiving the balance of the account may not be later than the end of the calendar year following the year a partial distribution was received. Any such election to defer the commencement of distributions shall be filed with the commission on or before the sixtieth day following the date in which the participant separates from service.

B. If the participant is an independent contractor:

1. in no event shall distributions commence prior to the conclusion of the 12-month period beginning on the date on which all such participant's contracts to provide services to or on behalf of the employer expire; and
2. in no event shall a distribution payable to such participant pursuant to Chapter 7 of these rules commence if, prior to the conclusion of the 12-month period, the participant performs services for the employer as an employee or independent contractor.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998).

§707. Commencement Date Referral

The participant may irrevocably postpone the original deferred distribution date elected in §705 above to a later date, but not later than April 1 of the calendar year following the calendar year the participant attains age 70½, provided that:

1. such election is made prior to the deferred commencement date elected in §705 above and before distributions have commenced; and
2. the participant may make only one such election.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1967 (October 1998).

§709. In-Service De Minimus Accounts

The participant may elect to receive or the commission may distribute, without the consent of the participant, the participant's entire account in a lump sum if all of the following conditions are met:

1. the value of a participant's account does not exceed \$5,000, or the maximum amount permitted by the *Internal Revenue Code* or Internal Revenue Service regulations;
2. no amount has been deferred under the Plan with respect to the participant during the two-year period ending on the date of the distribution; and
3. there has been no prior distribution under the Plan to the participant pursuant to this §709.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998).

§711. Unforeseeable Emergency

If a participant has incurred a genuine unforeseeable emergency and no other resources of financial relief are available, the commission may grant, in its sole discretion, a participant's request for a payment from the participant's account. Any payment made under this provision shall be in a lump sum.

1. The commission shall have the right to request and review all pertinent information necessary to assure that hardship withdrawal requests are consistent with the provisions of IRC §457.

2. In no event, however, shall an unforeseeable emergency distribution be made if such hardship may be relieved:

- a. through reimbursement or compensation by insurance or otherwise;
- b. by liquidation of the participant's assets, to the extent the liquidation of the participant's assets would not itself cause a severe financial hardship; or
- c. by cessation of deferrals under this Plan.

3. The amount of any financial hardship benefit shall not exceed the lesser of:

- a. the amount reasonably necessary, as determined by the commission, to satisfy the hardship; or
- b. the amount of the participant's account.

4. Payment of a financial hardship distribution shall result in mandatory suspension of deferrals for a minimum of 12 months from the date of payment.

5. Currently, the following events are not considered unforeseeable emergencies under the Plan:

- a. enrollment of a child in college;
- b. purchase of a house;
- c. purchase or repair of an automobile;
- d. repayment of loans;
- e. payment of income taxes, back taxes, or fines associated with back taxes;
- f. unpaid expenses including rent, utility bills, mortgage payments, or medical bills;
- g. marital separation or divorce; or
- h. bankruptcy (except when bankruptcy resulted

directly and solely from illness or casualty loss).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998).

§713. Death Benefits

A. If the participant dies after the commencement of distributions to the participant, the participant's remaining account shall be distributed to the beneficiary at least as rapidly as under the method of distribution in effect on the date of the participant's death.

B. If the participant dies prior to the commencement of distributions to the participant, and:

1. if the beneficiary is the participant's surviving spouse:
 - a. the commencement date shall be no later than the last day of the calendar year in which the participant would have attained age 70½ (or, if later, the calendar year immediately following the year of the participant's death); and
 - b. distribution shall be made to the beneficiary over a period that does not exceed the life expectancy of the beneficiary.

2. if the beneficiary is not the participant's surviving spouse:

- a. the entire account balance shall be distributed no later than the last day of the calendar year which includes the fifth anniversary of the participant's death; or

b. if distributions to the beneficiary commence by the last day of the calendar year immediately following the year of the participant's death, the entire account balance shall be distributed over a period not exceeding 15 years or, if earlier, the beneficiary's life expectancy;

c. subject to the limitations set forth above, distributions shall be made to the beneficiary commencing on the sixty-first day after the commission receives satisfactory proof of the participant's death, unless prior to such date the beneficiary irrevocably elects a deferred commencement date consistent with this §713;

d. distribution shall be made in a form and manner determined under LAC 71:VII.715 and 717 that is consistent with the limitations set forth above.

C. If there are two or more beneficiaries, the provisions of this Subsection and LAC 71:VII.719 shall be applied to each beneficiary separately with respect to each beneficiary's share in the participant's account.

D. If the beneficiary dies after beginning to receive benefits but before the entire account balance has been distributed, the remaining account balance shall be paid to the estate of the beneficiary in a lump sum.

E. Under no circumstances shall the commission be liable to the beneficiary for the amount of any payment made in the name of the participant before the commission receives satisfactory proof of the participant's death.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1968 (October 1998).

§715. Payment Options

A. A participant's or beneficiary's election of a payment option must be made at least 30 days prior to the date that the payment of benefits is to commence. If a timely election of a payment option is not made, benefits shall be paid in accordance with LAC 71:VII.717. Subject to applicable law and the other provisions of this Plan, distributions may be made in accordance with one of the following payment options:

1. a single lump-sum payment;
2. substantially nonincreasing installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) which extends no longer than the life expectancy of the participant or such longer period as permitted under §713 of these rules;
3. substantially nonincreasing installment payments for a period of years (payable on a monthly, quarterly, semiannual, or annual basis) automatically adjusted for cost-of-living increases based on the rise in the *Consumer Price Index for All Urban Consumers* (CPI-U) from the third quarter of the last year in which a cost-of-living increase was provided to the third quarter of the current year. Any increase shall be made in periodic payment checks beginning the following January;
4. partial lump-sum payment of a designated amount, with the balance payable in substantially nonincreasing installment payments for a period of years, as described in Paragraph 2 of this Subsection, as long as such installment payments begin prior to the end of the calendar year following the year the partial lump-sum payment was made;
5. annuity payments (payable on a monthly, quarterly, or annual basis) for the lifetime of the participant or for the lifetime of the participant and beneficiary;
6. such other forms of substantially nonincreasing installment payments as may be approved by the commission consistent with the limitations of LAC 71:VII.713.

Once payments have commenced, the form of payment option may not be changed.

B. If a participant has Plan assets with more than one investment provider under the employer's deferred compensation plan, funds from each investment provider must be coordinated and distributed in a manner that does not violate the "substantially nonincreasing amount" provision in IRC §457(d) as amended from time to time.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998).

§717. Default Distribution Option

If the participant fails to make a timely election of one of the payment options (described in LAC 71:VII.715 for distributions pursuant to LAC 71:VII.702) payments shall be made in a lump sum. If a beneficiary fails to make a timely election of one of the payment options described in LAC 71:VII.715 for distributions pursuant to §713 of these rules, distribution shall be made in a lump sum.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998).

§719. Limitations on Distribution Options

A. No distribution option may be selected by a participant or beneficiary under this Chapter 7 unless it satisfies the requirements of IRC §§401(a)(9) and 457(d), including the requirement that installment payments be made in substantially nonincreasing amounts and that payments commencing before the death of the participant satisfy the incidental death benefits requirement. A cost-of-living increase included as part of a payment option is intended to comply with written IRS guidance such that the substantially nonincreasing amount rule shall not be violated.

B. Unless otherwise elected by the participant (or spouse, in the cases of certain distributions described in LAC 71:VII.713), life expectancies of the participant and/or spouse shall be recalculated annually in determining the required minimum distribution amount under IRC §401(a)(9).

C. An election of nonrecalculation must be made as part of the election of a payment option under LAC 71:VII.715, and shall be irrevocable as to the participant (or spouse, if applicable) for all subsequent years. The life expectancy of a non-spouse beneficiary may not be recalculated. The terms of this Chapter 7 shall be construed in accordance with all applicable IRC sections and the regulations thereunder.

D. If installment payments are designated as the method of distribution, the minimum distribution shall be no less than \$100 per check, and the payments made annually must be no less than \$600.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998).

§721. Taxation of Distributions

To the extent required by law, income and other taxes shall be withheld from each benefit payment, and payments shall be reported to the appropriate governmental agency or agencies.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998).

§723. Transfers

A. Transfers to the Plan. If the participant was formerly a participant in an eligible deferred compensation plan maintained by another employer, and if such plan permits the direct transfer of the participant's interest therein to the Plan, then the Plan shall accept assets representing the value of such interest; provided, however, that the participant has separated from service with that employer and become an employee of employer. Such amounts shall be held, accounted for, administered and otherwise treated in the same manner as compensation deferred by the participant except that such amounts shall not be considered compensation deferred under the Plan in the taxable year of such transfer in determining the maximum deferral under LAC 71:VII.303. The commission may require such documentation from the predecessor plan as it deems necessary to confirm that such plan is an eligible

deferred compensation plan within the meaning of IRC §457, and to assure that transfers are provided under such plan. The commission may refuse to accept a transfer in the form of assets other than cash, unless the commission agrees to hold such other assets under the Plan.

B. Transfers from the Plan. If a participant separates from service prior to his or her required beginning date, and becomes a participant in an eligible deferred compensation plan of another employer, and provided that payments under this Plan have not begun, such participant may request a transfer of his or her account to the eligible deferred compensation plan of the other employer. Requests for such transfers must be made in writing to the commission and shall be granted in the sole discretion of the commission. If an amount is to be transferred pursuant to this provision, the commission shall transfer such amount directly to the eligible deferred compensation plan of the other employer. Amounts transferred to another eligible deferred compensation plan shall be treated as distributed from this Plan and this Plan shall have no further responsibility to the participant or any beneficiary with respect to the amount transferred.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1969 (October 1998).

§725. Elections

Elections under this Chapter shall be made in such form and manner as the commission may specify from time to time.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998).

Chapter 9. Leave of Absence

§901. Paid and Unpaid Leave of Absence

A. Paid Leave of Absence. If a participant is on an approved leave of absence from the employer with compensation, or on approved leave of absence without compensation that does not constitute a separation from service within the meaning of IRC §402(d)(4)(A)(iii) which under the employer's current practices is generally a leave of absence without compensation for a period of one year or less, said participant's participation in the Plan may continue.

B. Unpaid Leave of Absence. If a participant is on an approved leave of absence without compensation and such leave of absence continues to such an extent that it becomes a separation from service within the meaning of IRC §402(e)(4)(A)(iii), said participant shall have separated from service with the employer for purposes of this Plan; provided, however, that pursuant to LAC 71:VII.705, said participant may elect to postpone commencement of benefit payments until a future date. Upon termination of leave without pay and return to active status, the participant may execute a new Participation Agreement to be effective when permitted by §301 of the Plan.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998).

Chapter 11. Plan Amendment or Termination

§1101. Termination

A. The commission may at any time terminate this Plan; provided, however, that no termination shall affect the amount of benefits which at the time of such termination shall have accrued for participants or beneficiaries. Such accrued benefits shall include any compensation deferred before the time of the termination and income thereon accrued to the date of the termination.

B. Upon such termination, each participant in the Plan shall be deemed to have revoked his agreement to defer future compensation as provided in LAC 71:VII.311 as of the date of such termination. Each participant's full compensation on a nondeferred basis shall be restored.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998).

§1103. Amendment

A. The commission may also amend the provisions of this Plan at any time; provided, however, that no amendment shall affect the amount of benefits which at the time of such amendment shall have accrued for participants or beneficiaries, to the extent of compensation deferred before the time of the amendment and income thereon accrued to the date of the amendment, calculated in accordance with LAC 71:VII.705 and the terms and conditions of the investment options hereunder; and provided further, that no amendment shall affect the duties and responsibilities of the trustee unless executed by the trustee.

B. Copies of Amendments. The administrator shall provide a copy of any plan amendment to any trustee or custodian and to the issuers of any investment options.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998).

Chapter 13. Taxes, Nonassignability and Disclaimer

§1301. Tax Treatment of Amounts Deferred

It is intended that pursuant to IRC §457, the amount of deferred compensation shall not be considered current compensation for purposes of federal and state income taxation. Such amounts shall, however, be included as compensation to the extent required under the Federal Insurance Contributions Act (FICA).

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1970 (October 1998).

§1303. Nonassignability

A. Nonassignability. It is agreed that neither the participant, nor any beneficiary, nor any other designee shall have any right to commute, sell, assign, transfer, or otherwise convey the right to receive any payments hereunder, which payments and right thereto are expressly declared to be nonassignable and nontransferable; and in the event of attempt to assign or transfer, the commission shall have no further liability hereunder, nor shall any unpaid amounts be subject to

attachment, garnishment or execution, or be transferable by operation of law in event of bankruptcy, or insolvency, except to the extent otherwise required by law.

B. Conforming Equitable Distribution Orders. Domestic relations orders approved by the commission shall be administered as follows.

1. To the extent required under a final judgment, decree, or order made pursuant to a state domestic relations law, herein referred to as a Conforming Equitable Distribution Order (CEDO), which is duly filed upon the commission, any portion of a participant's account may be paid or set aside for payment to an alternate payee.

(Note: For purposes for this Section, an alternate payee is a person or persons designated by a domestic relations order who may be a spouse, former spouse, or a child of the participant.)

Where necessary to carry out the terms of such a CEDO, a separate account shall be established with respect to the alternate payee, and such person(s) shall be entitled to make investment selections with respect thereto in the same manner as the participant. All costs and charges incurred in carrying out the investment selection shall be deducted from the account created for the alternate payee making the investment selection.

2. Any amounts so set aside for an alternate payee shall be paid out in a lump sum at the earliest date that benefits may be paid to the participant, unless the CEDO directs a different form of payment or later payment date. In no event is the alternate payee entitled to receive a distribution from the Plan prior to the time that the participant separates from service with the employer or becomes age 70½. Nothing in this §1303 shall be construed to authorize any amounts to be distributed under the employer's plan at a time or in a form that is not permitted under §457 of the *Internal Revenue Code*. Any payment made to a person other than the participant pursuant to this §1303 shall be reduced by required income tax withholding. The fact that payment is made to a person other than the participant may not prevent such payment from being includible in the gross income of the participant for withholding and income tax reporting purposes. Such withholding and income tax reporting shall be done under the terms of the *Internal Revenue Code* as amended from time to time.

3. The commission's liability to pay benefits to a participant shall be reduced to the extent that amounts have been paid or set aside for payment to an alternate payee pursuant to this §1303. No amount shall be paid or set aside unless the commission, or its agents or assigns, has been provided with satisfactory evidence releasing them from any further claim by the participant with respect to these amounts. The participant shall be deemed to have released the commission from any claim with respect to such amounts in any case in which the commission has been notified of or otherwise joined in a proceeding relating to a CEDO, which sets aside a portion of the participant's account for an alternate payee, and the participant fails to obtain an order of the court in the proceeding relieving the employer from the obligation to comply with the CEDO.

4. The commission shall not be obligated to comply with any judgment, decree or order which attempts to require

the Plan to violate any plan provision or any provision of §457 of the *Internal Revenue Code*. Neither the commission nor its agents or assigns shall be obligated to defend against or set aside any judgment, decree, or order described herein or any legal order relating to the division of a participant's benefits under the plan unless the full expense of such legal action is borne by the participant. In the event that the participant's action (or inaction) nonetheless causes the commission, its agents or assigns to incur such expense, the amount of the expense may be charged against the participant's account and thereby reduce the commission's obligation to pay benefits to the participant. In the course of any proceeding relating to divorce, separation, or child support, the commission, its agents and assigns shall be authorized to disclose information relating to the participant's individual account to the participant's spouse, former spouse or child (including the legal representatives of the alternate payee), or to a court.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:000 (October 1998).

§1305. Disclaimer

The commission makes no endorsement, guarantee or any other representation and shall not be liable to the Plan or to any participant, beneficiary, or any other person with respect to:

1. the financial soundness, investment performance, fitness, or suitability (for meeting a participant's objectives, future obligations under the Plan, or any other purpose) of any investment option in which amounts deferred under the Plan are actually invested; or

2. the tax consequences of the Plan to any participant, beneficiary or any other person.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1971 (October 1998).

Chapter 15. Employer Participation

§1501. Additional Compensation Deferred

Notwithstanding any other provisions of this Plan, the employer may add to the amounts payable to any participant under the Plan additional deferred compensation for services to be rendered by the participant to the employer during a calendar month, provided:

1. the participant has elected to have such additional compensation deferred, invested, and distributed pursuant to this Plan, prior to the calendar month in which the compensation is earned; and

2. such additional compensation deferred, when added to all other compensation deferred under the Plan, does not exceed the maximum deferral permitted by Chapter 3.

AUTHORITY NOTE: Promulgated in accordance with IRC §457 and R.S. 42:1301-1308.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Deferred Compensation Commission, LR 24:1971 (October 1998).

