

Rules

RULE

Department of Civil Service Board of Ethics

Lobbyist Disclosure Act (LAC 52:I.1901-1905)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the Department of Civil Service, Louisiana Board of Ethics, promulgated amendments and changes to the Rules for the Board of Ethics regarding the administration and enforcement of the provisions of the Lobbyist Disclosure Act as authorized by Louisiana Revised Statute 42:1132D.

Title 52 ETHICS

Part I. Board of Ethics

Chapter 19. Lobbyist Disclosure Act

§1901. In General

The Lobbyist Disclosure Act provides that the Board of Ethics shall administer and enforce the provisions of the Act.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:624 (April 1999).

§1902. Filing Fees

A. A fee of \$10 shall be remitted to the board with each registration or supplemental registration required to be filed by a lobbyist.

B. All fees paid in compliance with this Chapter shall be by check or money order.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:264 (April 1999).

§1903. Registration and Reporting; Forms

A. The staff shall prepare and provide upon request, forms for the registration and reporting of lobbyists. The forms may be provided on paper or in electronic format.

B. No registration or report filed by a lobbyist will be dated and filed with the board unless the registration or report is on the proper form as provided by the staff.

C. The method of signature and notarization shall be as provided in §1803.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:624 (April 1999).

§1904. Registration and Reporting; Dating, Numbering and Filing

The staff shall establish a procedure for the dating, indexing, and filing of all Lobbyist registration and Lobbyist Disclosure reports received by the board.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:624 (April 1999).

§1905. Automatic Termination of Registration for Failure to Renew; Retroactivity

If a registered lobbyist fails to renew his registration by January 31 of the applicable year, then his registration shall be terminated retroactively as of December 31 of the previous year.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 25:624 (April 1999).

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Ethics Administrator

9904#012

RULE

Board of Elementary and Secondary Education

Bulletin 1191—School Transportation Handbook (LAC 28:XXVII.Chapters 1-33)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education adopted revised Bulletin 1191, promulgated in LR 2:198 (June 1976), referenced in LAC 28:I.915.A. Bulletin 1191 is designed to provide information and direction to local school system personnel in school transportation in Louisiana, and minor changes are being made to further clarify the contents and the intent of policies.

Title 28

EDUCATION

Part XXVII. Bulletin 1191—School Transportation Handbook

(Editor's Note: Bulletin 1191 was adopted by the Board of Elementary and Secondary Education in LR 2:187 (June 1976) and amended LR 5:168 (July 1979), LR 8:406 (August 1982), LR 11:252 (March 1985), LR 14:10 (January 1988), LR 15:468 (June 1989), LR 19:171 (February 1993), LR 19:890 (July 1993), and LR 22:809 (September 1996). This present revision is being published in codified form, hence historical notes will reflect a history, by section, from this time forward.)

Chapter 1. Introduction

§101. Acknowledgments

A. This handbook was developed by the Louisiana Department of Education, with the assistance and cooperation of the Louisiana Association of School Transportation Officials and the Louisiana Transportation Improvement Committee. It is designed to provide information and direction to local school system personnel involved in school transportation in Louisiana.

B. The Department of Education is especially indebted to these two Transportation Supervisors for their committee leadership:

1. Diana "Dee" Duhon, Vermilion Parish, Chairperson; and

2. Felix Thomas, Grant Parish, Co-Chairman.

C. Appreciation is also extended to the Transportation Supervisors and others who have donated their valuable time and effort to the revision of this important document:

1. Shelton Eubanks, Allen Parish;
2. George Horne, Horne Enterprises;
3. Jimmy Sibille, St. Landry Parish;
4. Dale Boudreaux, Jefferson Parish.

D. Additional information is contained in Louisiana Department of Education Bulletin 1475 (Operational and Maintenance Procedures), Bulletin 1213 (Minimum Standards for School Buses in Louisiana), and Bulletin 1886 (Special Education Transportation); in the Louisiana Commercial Driver's License Program; in various federal and state statutes and regulations, as well as in local policies and directives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:624 (April 1999).

§103. Purpose

A. To set forth policies and to reference statutes which govern the operation of transportation services.

B. To provide local school systems with information to be used in establishing pupil transportation policies.

C. To provide foundations for continued improvement in the overall transportation program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:625 (April 1999).

Chapter 3. State Administration

§301. Role of State Supervisor

A. Acting under the authority of the State Board of Elementary and Secondary Education, the State Superintendent of Education is responsible for carrying out such policies as may be adopted by the Board. The legal responsibilities of the State Department of Education are defined by Louisiana law or policies of the State Board of Elementary and Secondary Education.

B. Aside from matters concerned with the financial aspects imposed upon it by law, the primary responsibility of the State Department of Education in pupil transportation is to provide strong leadership and assistance in the development of a comprehensive pupil transportation program for statewide application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:625 (April 1999).

§303. Responsibilities

A. The responsibilities listed below are assumed directly by the State within the framework of a total cooperative effort whereby the state and the local school system work together to ensure a safe, efficient and economical transportation system.

1. Develop and implement clear and concise pupil transportation policies.

2. Develop and implement a statewide system for the management of pupil Transportation.

3. Assist local school systems to promote pupil transportation safety programs utilizing the community, the media, law-enforcement agencies and other agencies concerned with pupil transportation. (See also Bulletins 1475: Operational and Vehicle Maintenance Procedures and Bulletin 1886: Special Education Transportation Guide.)

4. Develop and implement educational programs and materials for school bus drivers, transportation supervisors, school administrators and school bus passengers.

5. Monitor and assist local school systems to evaluate transportation systems and provide direction where applicable.

6. Plan and conduct workshops, seminars and/or conferences for pupil transportation personnel.

7. Coordinate services with other divisions of State Government to ensure adherence to all federal and state regulations.

8. Establish chassis, body and equipment standards that would be conducive to better and safer bus performance. (See Bulletin 1213: Minimum Standards for School Buses in Louisiana.)

9. Provide advisory services to local school systems on technical issues relative to the operation of school transportation programs.

10. Collect and compile appropriate statistical data and maintain a cost accounting system for all expenditures in the area of pupil transportation.

11. Study and make recommendations regarding legislation and appropriate research in the field of pupil transportation.

12. Encourage institutions of higher education throughout the state to provide courses in pupil transportation operation and safety.

13. Develop and direct a statewide management information system for the collection and analysis of pupil transportation data (operational costs, accidents and injuries, driver certification, etc.)

14. Develop manuals or handbooks for local pupil transportation supervisors, school administrators and bus drivers containing instructions for implementation of the state's pupil transportation policy and state pupil transportation regulations.

15. Annually visit local school systems to evaluate transportation systems and provide direction as necessary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:625 (April 1999).

Chapter 5. Local Administration

§501. Role of Local School Board

A. Local school boards are empowered with all authority except those specifically reserved for the state. Duties and responsibilities are as follows.

1. Oversee purchase and ownership of buses.

2. Establish bus routes.

3. Employ drivers in accordance with all applicable statutes and policies and enter written employment agreements.

4. Operate and maintain student transportation services.
5. Determine policy not specifically regulated.
6. Establish a system for the supervision of the local transportation program.

7. Provide for pre-service and inservice training of school bus drivers in accordance with the guidelines established by the Louisiana Department of Education.

8. Maintain a safe, efficient and economical school transportation program.

9. Develop and implement a plan for the evacuation of school(s) requiring the use of school buses in case of an emergency or natural disaster.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:625 (April 1999).

§503. Role of Local Superintendent

A. The local superintendent, who has the authority of the local school board, is responsible for the administration of the overall local school transportation program. Duties and responsibilities are as follows.

1. Present recommendations to the local school board on all phases of the transportation program.

2. Administer and follow through on all policies affecting the transportation program.

3. Recommend and/or appoint personnel to supervise the school transportation program.

4. Develop, adopt and enforce rules and regulations governing students riding school buses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:626 (April 1999).

§505. Role of Local Transportation Supervisor

A. The local supervisor, who receives authority from the local superintendent and local board, has the following duties.

1. Recommend employment, suspension and/or termination of bus drivers and bus attendants.

2. Recommend prospective bus routes.

3. Recommend rules and regulations affecting school transportation.

4. Assist local school principals, bus drivers, pupils and parents in resolving transportation issues.

5. Arrange, conduct, supervise and/or monitor pre-service and inservice training of school bus drivers.

6. Keep records and prepare reports relative to local school bus transportation services.

7. Investigate and report accidents and other problems associated with pupil transportation programs. Appoint an accident review board to assist transportation personnel in investigating all school bus accidents to determine preventability and recommend remedial action in accordance with Board of Elementary and Secondary Education policy. (See Definition of Terms, Chapter 31)

8. Supervise and evaluate all school transportation personnel as authorized by the local system's superintendent.

9. Present recommendations to the local superintendent on all phases of the pupil transportation program.

10. Ensure compliance with semi-annual vehicle inspections and coordinate additional spot inspections as may be deemed appropriate.

11. Exercise discretionary powers which are necessary and proper for the performance of the duties of the Supervisor of Transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:626 (April 1999).

§507. Role of School Principal

A. The principal, as the representative of the local school board at the school level, is responsible for the supervision of all buses serving the school. As a part of his/her duties, the principal should maintain close contact with each school bus driver, and assist bus drivers as much as possible in reaching the handling of any disciplinary problems. It is the principal's responsibility to work with the drivers through frequent meetings where problems concerning the transportation program can be discussed. Equally important is the principal's responsibility to inform teachers of their roles in safe transportation and to assist them in developing a classroom program that will result in better understanding on the part of both pupils and parents as to their responsibility in the successful program of transportation. The principal should be given authority to act on matters concerning the transportation program in the same manner as with other supervisory duties. The principal responsible for the collection of transportation information from each bus driver, and for the transmittal of such information to the local transportation supervisor. He/she is responsible for the promotion of safety instruction among bus drivers, an important factor in a successful pupil transportation program. The principal has the following specific duties and responsibilities.

1. Be responsible for handling disciplinary problems.

2. Maintain contact with drivers to handle individual transportation problems and promote safety instruction.

3. Conduct meetings with teachers to inform teachers of their role in school transportation services.

4. Develop safe loading and unloading zones and procedures for each school.

5. Provide adequate supervision for pupils whose bus schedules require them to arrive at school before classes begin and/or remain after classes terminate, and supervision for passenger loading and unloading at school.

6. Collect transportation information from drivers and transmit it to the local supervisor and/or superintendent.

7. Develop and ensure compliance with mandatory classroom programs promoting safe transportation habits. (See Chapter 15)

8. Conduct emergency evacuation drills as required. (See Chapter 15)

9. Inform students and parents of rules and regulations adopted by the local school system.

10. Maintain verification on file that students and parents have read, understand and agree to abide by the school bus transportation rules and regulations as a condition for services being rendered.

11. Provide to drivers the names, addresses and emergency information for all passengers. (See also Bulletin 1886: Special Education Transportation Guide with respect to providing information pertaining to passengers with special needs.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:626 (April 1999).

§509. Role of School Staff

A. Teachers must help students recognize their responsibilities within the school transportation program. The fundamental responsibility of teachers with respect to the school transportation program is to develop desirable attitudes toward safety within their students to ensure proper behavior when the students are passengers on the school bus.

1. Be thoroughly familiar with local rules and regulations for the students riding the bus with particular emphasis on the school bus stop law and emergency evacuation procedures.

2. Provide classroom instruction in safe riding practices as directed by the principal. Such instructions should be given during the first week of each semester and periodically during the school year as needed.

3. Encourage students to obey safety regulations while waiting for, boarding, riding, unloading and moving away from the bus.

4. Maintain control of the bus loading zones during loading and unloading, as assigned by local school administrators.

5. Maintain the discipline of students on field trips and while on any extra-curricular activities requiring school bus transportation.

6. Prepare passenger rosters and seating charts for students participating in all activity trips.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:627 (April 1999).

§511. Role of School Bus Driver

A. The school bus driver has the most important role in the transportation program, transporting children safely to and from school. The bus driver is responsible to the parish school board, the superintendent, the transportation supervisor and the principal for all actions relating to the safe and efficient handling of the bus.

1. Have concern for the *safety* of the children. (Bus drivers are morally, as well as legally, responsible for transporting children using every precaution for maximum protection.)

2. Conduct pre-trip, en-route and post-trip checks on the vehicle and its special equipment. Particular attention should be given to checking for passengers who may have remained on board after each run or trip has been completed.

3. Know the policies of the school board concerning transportation.

4. Know state and local traffic laws and ordinances governing motor vehicle operation.

5. Participate in all required meetings, conferences and training courses to improve transportation skills.

6. Maintain proper care, repair and inspection of the bus.

7. Complete and submit required reports within specified time lines.

8. Be punctual and reliable in the operation of assigned routes.

9. Avoid the use of obscene language, tobacco, alcohol and narcotic drugs while operating bus. (*Commercial Driver License DOT regulations and Drug Free School Zone regulations must be followed.*)

10. Instruct passengers on all local and state rules and regulations and maintain orderly conduct.

11. Use standard school bus behavior report form as required.

12. Maintain good relations with school and home, central office, and general public. (*See Bulletin 1475 for detailed information.*)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:627 (April 1999).

§513. Role of Bus Attendant or Aide

A. The special needs bus attendant, or aide, is a very important member of the transportation team. With the bus driver, the attendant shares the responsibility for safely transporting passengers to and from school and school-related activities. Special training is required for persons placed in this important position, and personnel selection should be made with great care. Chapter 21 of this bulletin and Bulletin 1886 (Special Education Transportation Guide) contains a more comprehensive description of job performance requirements, but the basic requirements are listed below.

1. Be on the bus route at all times during the bus route, except as authorized by the Transportation Department.

2. Occupy a seat on the bus where student riders can easily be assisted.

3. Ensure that required protective safety devices are in use and are fastened properly. (In instances when an attendant is not available, this shall be the responsibility of the bus driver.)

4. Assist such students on and off the bus at school, at designated bus stops, and otherwise when it is necessary for their safe entrance and exit from the bus.

5. Arrange for a substitute bus attendant in the event the regularly assigned attendant must be absent, unless local procedures specify another procedure.

6. Assist the driver with post-trip inspection procedures, checking especially for passengers, special equipment, medication, etc. that may have been left on board the bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:627 (April 1999).

§515. Role of Parents

A. Parents should be informed of and should understand their responsibility in working with the bus driver and school system personnel for the welfare and safety of their children. Also, emphasis should be placed on the problems involved with safe transportation and the extent of responsibility placed on bus drivers who are transporting their children.

1. Be familiar with and follow local board and school level policies for school bus transportation.

2. Have children ready and at their designated pickup points along the route.

3. Cooperate with the school and bus driver in teaching children safety precautions and good manners and habits for school bus passengers.

4. Assist when there are disciplinary problems.

5. Avoid detaining the driver on the route.

6. Avoid contacting drivers to change schedules, routes assignments, bus stops, etc. (If a problem arises contact the principal or Supervisor of Transportation.)

7. Assist the school district in monitoring safe access to passengers by keeping bus loading and unloading zones free of parked vehicles, trash or debris, by keeping vegetation trimmed, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:627 (April 1999).

§517. Rules for School Bus Riders

A. A school bus with undisciplined passengers is a hazardous bus. The misbehavior of the students can lead to accidents. The driver must concentrate on the driving task at hand and cannot be expected to constantly discipline the students while the bus is in motion. Therefore, for the safe operation of the school bus, students should be aware of and obey the following safety rules.

1. Cooperate with the driver; your safety depends on it.

2. Be on time; the bus will not wait.

3. Cross the road cautiously under the direction of the driver when boarding and leaving the bus.

4. Follow the driver's instructions when loading and unloading.

5. Remain quiet enough not to distract the driver.

6. Have written permission and be authorized by the principal to get on or off at a stop other than the designated stop.

7. Remain seated at all times when the bus is in motion.

8. Keep arms, head or other objects inside the bus at all times.

9. Refrain from throwing objects in the bus or out of windows and doors.

10. Use emergency exits only for emergencies, and when instructed to do so.

11. Refrain from eating or drinking on the bus.

12. Avoid the use or possession of tobacco, matches, cigarette lighters, obscene materials, weapons, drugs or other prohibited items on the bus.

13. Take no glass objects or other objects on the bus if prohibited by state, federal law or local school board policies.

14. Take no band instruments, projects and other objects too large or too hazardous to be held by the passenger or stowed safely under the seat. They will not be permitted on the bus.

15. Refrain from damaging the bus in any way.

16. Be courteous, and safety-conscious. Protect your personal riding privilege, and enjoy the ride.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:628 (April 1999).

Chapter 7. Selection and Continued Employment: Full-Time, Substitute and Activity Bus Drivers and Special Education Bus Attendants

§701. Important Factors

A. The most important factors in student transportation is the school bus driver and the bus attendant. They must be in good physical condition, of sound moral character and skilled in the performance of their duties. They must be able to develop good relations with students, parents and supervisory personnel, able to adjust to varying job conditions and must possess positive attitudes toward safety.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:628 (April 1999).

§703. Employment Requirements

A. Any parish or city school system employee who is required to transport or assist in the transportation of students to and from school or school-related activities must meet certain requirements. This applies to full-time school bus drivers, substitute drivers, activity bus drivers and bus attendants. Mechanics, supervisors or other personnel who are licensed to drive school buses but do not actually transport students must fulfill requirements of the Louisiana Commercial Driver's License Program. They may not otherwise be required to fulfill all requirements specified in this section.

B. Employment applications and job descriptions must meet the requirements of the Americans with Disabilities Act and should include as a minimum the following information.

1. Name, address and telephone number of applicant.

2. Education and specialized training.

3. General physical condition.

4. Armed Services record (if applicable).

5. Personal and business references.

6. Record of criminal convictions (R.S. 15:587.1 and R.S. 17:15).

C. Specific job requirements necessitate specialized training for driving personnel and for bus attendants or aides before they are employed and during the entire terms of service in the transportation program. The minimum requirements are listed here; however, local school districts may establish additional criteria for driving personnel and/or bus attendants.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:628 (April 1999).

§705. School Bus Drivers

A. The term *school bus drivers* included in this section includes anyone who is certified to transport students to and from school and school-related activities. Full-time drivers, substitute drivers (including bus attendants who may also be certified to drive in emergency situations), activity bus drivers (teachers, coaches, custodians, etc.) and any other employee who at any time transports students must be certified (R.S. 17:491). These requirements are as follows.

- B. Initial Certification
1. Age: 21 years minimum.
 2. Criminal record check (finger printing required).
 3. Driving record check (Louisiana Department of Motor Vehicles).
 4. Commercial Driver's License (CDL).
 - a. Issued by state of *residence*.
 - b. Type C or B (B recommended).
 - c. Passenger endorsement *required*.
 - d. Air brakes authorization (may be required).
 5. Physical examination (CDL physical requirements as a minimum).
 6. Pre-service training—classroom instruction (30 hrs.) to include the following.
 - a. First aid course.
 - b. Defensive driving course.
 - c. Louisiana school bus driver course.
 - d. State/local laws, policies and procedures.
 - e. Transporting passengers with special needs.
 - f. Passenger management/student discipline.
 - g. Other topics authorized in Bulletin 1191, Chapter 9.
 7. Pre-service training—on bus (10 hrs).
 8. Drug/alcohol inservice and screening.

C. Annual Certification

1. Driving record check (Louisiana Department of Motor Vehicles).
2. Current CDL with appropriate endorsements/authorizations.
3. Physical and eye examination.
4. Applicable drug/alcohol testing.

D. Biannual Certification

1. Eight-hour inservice training (may be replaced with four-hour annual inservice training).

NOTE: Additional requirements (e.g., annual inservice training, periodic safety meetings, psychophysical examination, written tests, interviews, annual or biannual personnel evaluations, etc.) may be imposed by local school districts.

2. Certain items included in the previous listing are further explained here. Additional information may be obtained from the Department of Education.

E. Driving Record Check

1. Safe driving records are essential factors in driver selection. Prospective drivers, therefore, must submit documentation as a part of their permanent file attesting to their driving record. *No driver shall be employed if a major chargeable driving offense has occurred in the previous five years.* Specifically, applicants shall be disqualified from consideration as bus drivers if with the past five (5) years, they have been convicted of, or have forfeited a bond on, any charge of: DUI; transportation, possession or use of a Schedule I drug; leaving the scene of an accident involving an injury or fatality; or any felony involving the use of a motor vehicle. In addition, any applicant must come under close scrutiny if the driving or criminal record indicates that a concern should exist for the welfare of children in the applicant's charge.

2. The driving records of all full-time and substitute bus drivers and activity bus drivers must be reviewed by the Supervisor of Transportation annually. Additionally, these

drivers must report moving violations convictions in accordance with Louisiana Commercial Driver's License Statutes.

3. The Department of Public Safety and Corrections, Office of Motor Vehicles, shall provide for the examination of driving records, as provided in R.S. 17:491.1.

F. Physical Condition

1. The Commercial Driver's License physical examination is a minimum requirement. A copy of the examination form must be filed with the school district's Transportation Office before the beginning of each school year. More extensive and/or more frequent examinations may be required by the local district. *All school bus drivers must be certified as having normal use of both hands, both arms, both feet, both legs and must possess normal or corrected vision of 20/40 in both eyes, with a field of vision of at least 150 degrees.* They must have corrected or normal hearing, be free of communicable disease and of mental, emotion or functional disorders.

2. *After a heart attack or other serious illness,* a certificate of health and permission to return to work from a licensed physician must be presented and filed with the Transportation Office and maintained in the driver's record. Local school boards may require such certification, as well as all annual physical examinations, to be approved by board-appointed physicians.

G. Psychophysical Examination

1. Local school districts may include a psychophysical examination in the annual requirements. If administered, the psychophysical examination should include a test of depth perception (not to exceed three inches total in three trials) and a test of reaction time (not to exceed an average of 3/8 seconds in three trials). Individuals who exceed these maximums should be referred to a licensed physician for evaluation. A return to work certificate must be submitted to the transportation supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:628 (April 1999).

§707. Bus Attendants (Aides)

A. Bus attendants must be physically and emotionally able to assist the bus driver in all activities required to safely transport the student with special needs, except for actually driving the bus. (The attendants may also be certified to drive.) This may require the ability to perform some lifting activities, manual dexterity for assisting and securing students with assisting devices, supervising passengers and other essential tasks.

B. Local school districts have more latitude in selection criteria for bus attendants than for bus drivers. Nevertheless, annual physical examinations are recommended because of the nature of tasks to be performed. Additionally, preservice and biannual (or more frequent) inservice training should be mandated to cover student exceptionalities, management of the special needs passenger, first aid, loading and unloading techniques, emergency evacuation of the special needs bus and related topics.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:629 (April 1999).

§709. Termination of Services or Removal of Certification

A. *Full-time bus drivers* who have served the *mandatory three-year probationary period* and have acquired tenure may be terminated for cause, but only in accordance with the terms of R.S. 17: 493. Reasons for dismissal include willful neglect of duty; incompetence; immorality; intoxication while on duty; physical inability to perform duties; failure to keep the school bus in a safe, comfortable and practical operating condition; being a member of or contributing to any group, organization, movement or corporation that is prohibited by law or enjoined from operating in the State of Louisiana.

1. Additionally, the abolition, discontinuance or consolidation of bus routes may require a reduction in force, or lay-off of one or more bus drivers. The procedure prescribed in R.S. 17:493 must be followed.

B. The requirements for termination of services for non-tenured driving personnel and for bus attendants is less structured, but due process requirements and local policies and procedures must be followed. It is possible, also, that an activity bus driver may be denied driver certification without the employee's primary employment (e.g., teacher, custodian, etc.) being terminated. That would be a local decision.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999).

Chapter 9. Instructional Program for School Bus Drivers

§901. Driver Training Program

A. The application of federal and state minimum safety standards for school buses has greatly improved the safety of school children riding school buses within the state. Recent improvements in driver selection and training procedures resulted in employing safety-minded drivers. Emphasis in driver training programs has reduced the school bus accident rate in which the school bus driver is at fault. These high standards must be continued. The driver training program must continue to offer a means of educating drivers in safe, economical and efficient school transportation operations.

B. Local school systems, as well as the State Department of Education, must accept the responsibility for designing and implementing training programs that will continue to develop the driver's potential for safe, accident-free driving.

C. Instructional programs for school bus drivers are designed to prepare each driver for the unusually difficult task of safely transporting school children to and from school and school-related activities. Local school districts are authorized to design specific course content for two distinct categories of drivers: (1) full-time and substitute bus drivers who transport students on daily routes to and from school and (2) activity bus drivers who transport students occasionally to and from school-related activities (athletic events, parades, field trips, etc.).

D. If separate classes are scheduled, course content should be suited to specific needs of trainees. Example—Activity bus drivers need more training in planning and driving trips out of town and less training in transporting students on daily routes. Full-time and substitute drivers need more training in student

management and discipline procedures than do teachers who are training to be activity bus drivers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999).

§903. Two Types of Driver Training Make up the School Bus Driver Instructional Program

A. Preservice Training—which is designed to develop minimum skills in driver applicants.

B. Inservice Training—which is designed to improve skills, attitudes and knowledge of all who drive school buses in the State.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999).

§905. Preservice Training (Approximately 40 Hours)

A. In order to ensure safe operation from the onset, all driver trainees must complete the preservice phase of the school bus driver training program. Recent experience in driving a school bus may be considered when scheduling applicants for preservice training. *Also, trainees may be credited with previously completed courses or with job-related experience at the discretion of the local supervisor of transportation.*

B. Instructors for this training may be transportation supervisors, driver training instructors, specifically appointed, experienced school bus drivers who are also skilled in instructional methods or other approved instructional resource persons. State Department of Education personnel may be called on to assist in the classroom phase of preservice training.

C. Preservice instruction will consist of the following three phases: classroom instruction, vehicle familiarization and operation (behind-the-wheel), and on-the-road training. *Unless exempt by the local supervisor of transportation because of job-related experience and/or training, every driver trainee must complete at least 40 hours of instruction before being allowed to operate a school bus loaded with children. Examples of exemptions are segments of curriculum regarding student management and discipline procedures for certified teachers, first aid for first aid teachers, vehicle maintenance for school bus mechanics, transporting students with disabilities and daily loading/unloading procedures for activity bus drivers, etc.* (Drivers who become certified within a year after preservice training do not have to complete additional inservice training that same school year unless so required by local school systems.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999).

§907. Preservice Instruction

A. Classroom Instruction (30 Hours Total)

1. Unless exemptions are authorized in accordance with preceding paragraphs, preservice classroom instruction must include instruction in the following courses.

- a. Louisiana First Aid Course (Any approved first aid course) 4-8 hours

- b. Drug/Alcohol Awareness Policy and Testing Procedures 2 hours
- c. National Safety Council Bus Driver Defensive Driving Course, ("Coaching the School Bus Driver") 6-8 hours
- d. Appropriate units of Louisiana Department of Education School Bus Driver Instructional Program 6-8 hours
- e. Assertive Discipline/Passenger Management 1-2 hours
- f. Transporting Students with Disabilities 1-2 hours
- g. Applicable federal and state laws and regulations, local ordinances, state and local policies governing school bus transportation 2-4 hours
- h. State and local reporting procedures 2 hours

2. Additional classroom instruction may include the following topics.

- a. Drug Abuse Prevention Awareness.
- b. Recognizing and Reporting Child Abuse.
- c. Preventive Maintenance.
- d. Commercial Driver's License (CDL) Pre-Test Training.
- e. Special activity trip requirements.
- f. Other topics approved by the State Department of Education.

3. Minimum total classroom instruction 30 hours

B. Vehicle familiarization and operation training (Minimum 4 Hours).

1. This instruction must be conducted in the type of vehicle(s) the applicant will drive and should cover at least the following operational topics.

- a. Pre-trip, enroute and post-trip inspection procedures.
- b. Starting, stopping and turning procedures.
- c. Proper use of school bus signals.
- d. Proper backing procedures.
- e. Loading and unloading passengers.
- f. Emergency procedures, including emergency evacuation.
- g. Procedure at railroad crossings.
- h. Student safety instruction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999).

§909. On-the-Bus Training (Minimum 10 Hours)

A. This phase of the training cycle is designed to introduce the driver to the actual school bus driving task. Supervised on-the-bus training should include, but need not be limited to, the following, unless the trainee has previous school bus driving experience.

- 1. Observe regular driver 2 hours
- 2. Drive empty bus 2 hours
- 3. Drive loaded bus 6 hours

B. Additional training on-the-bus may be required as determined by the supervisor of transportation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:631 (April 1999).

§911. Inservice Training (Minimum 8 Hours Within a Two-Year Period)

A. Inservice training, which is designed to improve the driver's skills, attitude and knowledge, is a vital part of the total school bus safety effort. Training helps to ensure that drivers are kept up-to-date on any changes in laws, rules, regulations and policies, as well as to provide a ready refresher of materials covered in preservice training. As a minimum, at least eight (8) hours of inservice training must be provided to all drivers within a two year period; however, annual inservice training is encouraged. (The required eight hours may be divided into two (2) annual four-hour blocks, if so desired by the local transportation supervisor.)

B. Bus driver participation in inservice training sessions is mandatory for the driver to maintain certification. Training topics should be selected from the following courses on the basis of local school system needs.

- 1. Appropriate units of the Louisiana Department of Education School Bus Driver Instructional Program.
- 2. National Safety Council Defensive Driving Course: "Coaching the School Bus Driver."
- 3. Approved first aid course with emphasis on activities designed to meet school bus drivers' needs.
- 4. Assertive discipline/passenger management training.
- 5. Drug abuse prevention awareness training.
- 6. Transporting students with disabilities.
- 7. Recognizing and reporting child abuse.
- 8. Commercial Driver's License (CDL) training.
- 9. Special activity trip requirements.
- 10. Other topics approved by the State Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:631 (April 1999).

§913. Remedial Training

A. In addition to pre-service and inservice training, supervisory personnel should be aware that school bus drivers may require remedial training if their performance does not meet standards set by state and local policy. Remedial training should be designed to improve specific areas of performance.

B. The following examples reflect a need for remedial training:

- 1. involvement in preventable accidents;
- 2. a record of traffic violations;
- 3. inability to solve student behavior problems;
- 4. vehicle abuse;
- 5. discourteous behavior;
- 6. unreasonable schedule delays;
- 7. inappropriate driver attitude or performance;
- 8. changes in physical fitness;
- 9. failure to comply with state and local policies and procedures.

C. *Additional training by local school systems in all phases of student transportation operations is encouraged.*

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:631 (April 1999).

Chapter 11. Vehicle Operation

§1101. Vehicle Operation

A. Student transportation is a service to the student, the school and the community. This service must be measured in terms of service provided in relation to environmental, social, legal and other factors that affect safety, dependability and cost.

B. Bulletin 1475, Operational and Vehicle Maintenance Procedures, approved by the Louisiana Board of Elementary and Secondary Education and published by the Louisiana Department of Education, enumerates various operational procedures for Louisiana school bus drivers.

C. All supervisory and support personnel should review and familiarize themselves with the information contained in Bulletin 1475 to help ensure safe and comfortable rides for the students of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:632 (April 1999).

Chapter 13. Maintenance and Inspection

§1301. Maintenance

A. Proper maintenance of school vehicles is vital for a safe, efficient and economical transportation program. Each local system shall adhere to the following procedures.

1. All school vehicles must be maintained in safe operating condition through a systematic preventive maintenance program.

2. All school vehicles *must be inspected* during the months of *June, July, or August* and certified as safe by the appropriate authority prior to the beginning of each school session.

3. All school vehicles must be *inspected by* an approved Louisiana Commercial Motor Vehicle Inspection Station during *December, January or February* of each school year.

4. Accurate maintenance records must be kept for each school vehicle.

5. School vehicle drivers must conduct pre-trip inspections before beginning each trip, whether morning, mid-day or afternoon. Inspection must include *all items listed in Bulletin 1475 and the Louisiana Drivers Manual for Commercial Vehicle Driver Licensing (CDL)*.

6. Any defects or deficiencies in the areas listed above that may affect the safety of the vehicle's operation or result in its mechanical breakdowns must be reported verbally and in writing to the proper authorities (and approval must be granted by the proper authorities to continue operation of the vehicle).

7. A written report shall be made at the completion of each trip or tour of duty regarding any defect, deficiency, malfunction or questionable performance of a school vehicle.

8. Post-trip inspections must be conducted after each trip or individual run to check for passengers, equipment, medication, etc. that may have been left on the bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:632 (April 1999).

Chapter 15. Pupil Instruction

§1501. Safe Riding Practices

A. Because of the increased number of pupils being transported and the ever increasing number of accidents on the highways, there is a need to instruct pupils on safe riding practices and on proper evacuation of a school bus in case of an emergency.

B. *Twice during the school session*, intensive classroom instruction must be given on safe riding practices. This instruction must be presented once during the first six (6) weeks of each semester and should be coordinated to involve bus drivers, bus attendants, teachers and principals. Once the instruction has been completed, the principal must complete a *Form T-7*, certifying that the instruction has been performed and shall submit it to the local transportation supervisor. Instruction must include the following.

1. Student behavior.
2. Identifying individuals who have authority over passengers.
3. Loading and unloading procedures.
4. Seat assignments.
5. Acceptable conduct on the bus, e.g. talking, moving around and use of windows.
6. Keeping the bus clean.
7. Care of the bus and its equipment.
8. Emergency procedures, including evacuation drills.
9. Meeting the bus, waiting for the bus, leaving the area after unloading.
10. All other applicable local and state rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:632 (April 1999).

§1503. Emergency Exit Drills

A. In an emergency it is possible for pupils to jam the emergency door by all trying to get out of the door at the same time. In order to help avoid a situation of this type, schools should organize and conduct emergency exit drills for all pupils who may ride a school bus. (See Chapter 33.)

B. One emergency exit drill must be held during the first six (6) weeks of each school semester. The following guidelines are given for conducting the emergency exit drills.

1. Have a local written policy covering the drills.
2. School officials should schedule drills with drivers.
3. Practice drills on school grounds, during school hours, in a safe place, and under supervision of school officials.
4. Allow for individual differences in jumping out of the emergency door. Instruct helpers to offer a helping hand palm up and avoid grasping a child's hand or arm. Children will hold on if they want help.
5. Time each drill.
6. Practice exiting the bus through the service (front) door and the emergency rear and/or side door. Instruct students on use of other available emergency exits.
7. Ensure that the principal completes *Form T-8* and forwards it to local transportation supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:632 (April 1999).

Chapter 17. Evaluation of the Pupil Transportation System

§1701. Criteria

A. Each school system should have a plan for annually evaluating its pupil transportation operation. There are several criteria which can be applied to obtain some estimates of the operation's effectiveness. These criteria relate to such factors as safety, efficiency and economy.

B. Safety criteria include, but may not be limited to.

1. Injuries to pupils, the driver and other highway users.
2. Frequency and severity of property damage accidents in which buses are involved.
3. Frequency and severity of moving traffic violations for which drivers are cited.
4. Frequency and nature of complaints from parents, the motoring public, school administrators and pupils.
5. Frequency and nature of vehicle breakdowns, road failures and other emergency situations involving buses.
6. Hazardous situations on bus routes.

C. Efficiency and economy criteria include, but may not be limited to.

1. Bus route operation within the framework of established school hours.
2. Minimizing the actual time pupils are on the bus.
3. Routes designed to achieve maximum utilization (i.e., full capacity within reason), and elimination of unnecessary mileage and duplication.
4. Annual review of all routes and routing procedures, including stop-times.

D. Adequate planning is essential to the completion of a comprehensive evaluation of a transportation program. The planning procedures should include the establishment of essential short and long-range goals, with provisions for periodic evaluation of progress along predetermined time schedules and a point-by-point comparison of the system's present program with state policies and standards to identify deficiencies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999).

Chapter 19. Records and Reports

§1901. Records

A. Files on all school bus drivers, including substitutes and activity drivers, must be maintained in the local system's central office. The following documents must be included in these records.

1. Vehicle data.
2. Driver data.
3. Vehicle accident/incident records.
4. Vehicle inspection and maintenance records.
5. Complaints.
6. Liability insurance policy verification for contract drivers.
7. Documentation of completion of bus driver's training courses (preservice and inservice).

8. Medical examination reports.

B. A map and/or a description of each driver's routes (current and of adequate quality) must be kept in the local system's central office. Maps must indicate the following.

1. Location of driver's home or point of departure.
2. Beginning point, individual stops and final destinations of each route or daily trip or daily runs.
3. School or schools being served.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999).

§1903. Reports

A. Statistical data and reports on all bus-related accidents must be maintained by the local transportation supervisor. A written report of each accident may be made upon request by the Louisiana State Department of Education. (See Bulletin 1475, Chapter 29).

B. Cost and expenditure data for pupil transportation facilities, equipment, and staff must be maintained at the local level and provided to the State Department of Education upon request.

C. Accurate maintenance records must be kept for all buses, including those of contract drivers.

D. When a school bus collision occurs and there is one or more fatalities, or if occupants are in such critical condition that one or more fatalities seem imminent, notification should be made by the investigating police agency by telephone to the National Response Center in Washington, D.C., 1-800-424-8802 or 8803 or to Ron Engle, National Highway and Traffic Safety Administration (NHTSA 202-366-2717).

1. NHTSA may dispatch personnel to investigate accidents. It is essential that prompt notification occur to provide the investigators with an opportunity to cover each accident site before perishable information has been destroyed and while vehicles are still available for inspection by automotive specialists and other accident reconstruction specialists.

2. Police agencies having jurisdiction are not expected to hold the scene of these accidents for a Federal investigation team. The team will not interfere with or supersede the agency having original jurisdiction. It is desired that this will be a cooperative effort.

3. Bus drivers may be required to file Form SR-10 with Louisiana Department of Motor Vehicles after an accident.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999).

Chapter 21. School Bus Routes

§2101. Routes

A. The term *route* shall apply to the combined total daily trips (or runs) regularly assigned to the bus driver. The statutory authority governing the establishment and continuation of school bus routes in Louisiana is R.S. 17:158 and R.S. 17:497. The State Board of Elementary and Secondary Education (BESE) has been granted the authority under the provisions of R.S. 17:164 to establish and adopt regulations relating to the operation of school buses in the transportation of students to and from school.

B. The State Board (BESE) also adopts overall regulations relative to pupil transportation programs. The following policies were adopted by BESE to provide guidelines in setting up and continuing school bus routes in the state.

C. The primary responsibility for establishing and continuing school bus routes rests with the local school board. Local school boards are responsible for maintaining safe, efficient, economical school transportation programs by establishing and continuing only those routes that are needed to assure timely arrivals and departures within the framework of established school hours; by designing routes to achieve maximum utilization of buses and the elimination of unnecessary and duplicated mileage; and by consolidating and eliminating bus routes when no longer needed. The establishment of new routes and the continuation of existing routes shall be governed by §2103.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999).

§2103. Accurate Measurement of Bus Routes

A. Routes begin at the farthest point from the school or schools served and proceed on the shortest charted course. Exceptions exist when local school officials determine it is more economical to do otherwise and/or when there are hazardous conditions.

B. Bus routes are measured in terms of "one-way mileage." Paid one-way mileage for contract drivers begins when the first child is picked up and ends when the final destination or school is reached.

C. When one-way mileage differs in the afternoon from that of the morning route, the one-way mileage for the morning and afternoon is totaled and divided by two. The result is the average one-way mileage for that particular route.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:634 (April 1999).

§2105. Funding For School Transportation Services

A. The State Department of Education and the Board of Elementary and Secondary Education shall develop procedures and forms for local school districts to report transportation data and for receiving state funding for transportation. Local school districts may be required to provide any or all of the following information to the Department of Education.

1. An annual report of publicly and privately owned buses, including names of drivers, vehicle data, number of daily trips, number of students, number of daily miles, costs. Reporting forms or formats for electronic transmission of data will be provided by the Department of Education.

2. Record of contract owners who are covered by applicable frozen mileage statutes. (See Number 3 below.)

3. Frozen mileage (R.S. 17:497) is the mileage recorded on Form T-10 to indicate the route mileage approved by the Supervisor of Transportation *at the time the school bus is placed into service*. Frozen mileage guarantees that the contract owner/operator cannot be penalized by a reduction of

compensated mileage (except as may be requested by the owner/operator) for a period of seven (7) years when a new bus is purchased or five (5) years when a used bus *not more than five (5) model year old* is purchased. If route mileage is increased, operational mileage compensation must be increased accordingly, if route mileage is decreased because of circumstances beyond the control of the owner/operator, operational mileage compensation shall not be reduced below the mileage level indicated on Form T-10. Every effort should be made by the Supervisor of Transportation to assure that route mileage is not reduced below the frozen mileage level. If a driver requests and is granted less mileage than the frozen mileage, actual mileage shall be compensated. Frozen mileage applies only when the owner/operator makes a purchase of a new or used bus not more than five years old. *The transfer of a bus from spouse to spouse, acquisition as a gift, etc., other than a purchase does not afford frozen mileage to the person who acquires the bus.*

4. Selling of school buses (Form T-10) is used by the seller (i.e., chassis and by body dealers, individuals, etc.) To furnish a record of all buses bought and sold to public school bus drivers and/or school boards. The sellers, by signing this form, certifies that the bus meets all Federal Motor Vehicles Safety Standards (FMVSS), and the requirements of State Department of Education Bulletin 1213, *Minimum Standards For School Buses in Louisiana*. All information requested on the form must be carefully provided.

5. The seller and the purchaser should agree on such items as chassis and body condition, etc. The transportation supervisor shall record approved one-way mileage on Form T-10. *The completion of this form is mandatory*. Forms shall be submitted in a timely manner and should be forwarded to the Department of Education upon request. (T-10 Forms are available, upon request, from the Department of Education.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:634 (April 1999).

Chapter 23. Board Policies

§2301. Eligible Students

A. In accordance with Louisiana Revised Statute 17:158, each parish and city school board shall provide free transportation for any student who attends a school of suitable grade approved by the State Board of Elementary and Secondary Education if the student resides more than one mile from such school, and the school is within the jurisdictional boundaries of the parish or city school board.

B. For the purpose of administration, the distance shall be determined as extending from the student's driveway or entrance to the nearest public road, to the walking entrance of the school building. (The distance shall be measured by the most direct route and may be along roads and walkways.)

C. No person other than assigned students and authorized persons approved by the local Transportation Supervisor or other authorized school officials are allowed to board the bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:634 (April 1999).

§2303. Transportation of Students Living Within One Mile of School of Attendance

A. The State Board of Elementary and Secondary Education allows the local system to transport students living within one-mile of the school they attend if there are "exceptional" or hazardous walking situations. The transportation of these students requires special permission from the State Board. Approval of requests for the transportation of students living less than one mile from the school they attend will not be approved unless the request for such approval is accompanied by a plan or procedure to eliminate the exceptional conditions (if possible) by providing safe walking areas or conditions.

B. The plan must identify the problem, list proposed solutions, outline procedures to correct the problem, and include the time schedule for completion. When an emergency exists the State Superintendent of Education can authorize transportation, not to exceed 30 days. The conditions must be reviewed for continued approval. All exceptional conditions shall be reviewed by June 30 of each school year by the local school system to determine whether corrective actions can be made in order to relieve the need for this transportation. (Act 6 of the 1986 Special Legislative Session amended R.S. 17:158 (A) and thus allows 15 local school systems to transport within one mile if hazardous conditions exist, but at no cost to the state.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999).

Chapter 25. Special Education Transportation

§2501. Responsibility of the Louisiana Legislature

A. Provide appropriate funds for the implementation of all mandated transportation programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999).

§2503. Responsibility of the State Department of Education

A. Seek funding from the Louisiana Legislature to provide compensation to the local educational agencies for specially equipped school buses and bus attendants (aides).

B. Seek the necessary funds from the Louisiana Legislature to fully fund all transportation for students with special needs.

C. Seek funds from the Louisiana Legislature to employ the necessary personnel to develop and provide pre-service and inservice training programs for bus operators and attendants who transport students with special needs.

D. Provide current information to local school districts regarding changes in State and Federal laws, policies and procedures that affect student transportation services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999).

§2505. Responsibility of Local Board or Agency

A. Assure that the students being transported spend only a reasonable amount of time on the bus. (The locations of the

domicile and the school facility will be the determinate factors in the amount of travel time.)

B. Assure that supervision of students at transfer points (if applicable) will be in compliance with local educational agency policy.

C. Employ adult (i.e., 18 years of age or older with approved training as required by local board policy) attendant(s) as needed on all school buses transporting students with disabilities and for students with special needs.

D. Assure that all school buses used to transport students with special needs comply with current Louisiana State Department of Education Bulletin 1213, *Minimum Standards for School Buses in Louisiana*.

E. Assure that appropriate safety measures are used in the transportation of students with special needs. Such safety measures shall include the designation of roads, bus area, and any special bus stop location(s).

F. Assure that specialized equipment used to transport students to and from educational sites comply with all Federal Motor Vehicle Safety Standards, where such standards are applicable.

G. Develop, implement and post evacuation procedures for each school bus in accordance with requirements.

H. Suspend or terminate student transportation services upon the submission of appropriate documentation for the following reasons, with parents having the right to initiate due process proceedings.

1. When parents(s) or appointed designee does not assume responsibilities as outlined in §2509.

2. When the child's unacceptable behavior is related to the child's disability, and a mutually agreed upon alternative method of transportation will be implemented.

3. When the child's unacceptable behavior is not related to the disability, and the local disciplinary policies and procedures provide for suspension or termination of school bus transportation.

I. The local school superintendent (or designee) shall make a reasonable and timely effort to provide notification when it is known that there will be an interruption in bus service or a change in the bus schedule.

J. Provide to each school bus driver confidential emergency information for each student to include at least the following information.

1. Student's name and address.

2. Nature of student's disability.

3. Emergency health care information.

4. Name and telephone number of student's physician, parent, guardian and/or custodians who can be contacted in case of an emergency.

5. Provisions for student's welfare when and if the student is unable to be met at the designated bus stop (i.e. additional drop off location(s)).

6. A small photograph of the student if available.

7. Any other information deemed necessary by the local agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:635 (April 1999).

§2507. Responsibility of the Bus Operator and Attendant

A. Assure that students with special needs are supervised on board at all times.

B. Ensure that the protective safety devices are in use and fastened properly. (In instances where an attendant is not available, this shall be the responsibility of the bus operator.)

C. Assist students on and off the bus at the designated bus stop when it is necessary for their safe entrance and exit from the bus. Conduct post-trip inspection of the bus, checking especially for passengers, special equipment, medications, etc. that may have been left on board the bus.

D. Maintain on his/her vehicle confidential emergency information for each student.

E. The bus operator shall deliver the students to the same bus stop from which they were picked up. Special circumstances may allow a change in this procedure, but it must be approved by the local superintendent (or designee).

F. The attendant must be on the school bus at all times during the bus route if required by the I.E.P. Exceptions are to be made only by the local supervisor of transportation.

G. The bus operator will be responsible for providing the parent with appropriate emergency phone numbers to contact the driver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:636 (April 1999).

§2509. Responsibility of the Parents or Appointed Designee

A. Provide the local educational agency with pertinent written information regarding any special care the student may need while on the bus.

B. Have the child at the designated bus stop at the regularly scheduled time and provide the necessary supervision until the bus arrives.

C. Secure the child into any specialized carrying equipment or assistive device prior to the arrival of the bus.

D. Meet the bus upon its return to the designated bus stop at the scheduled time, if specified in the I.E.P., or make appropriate provisions for the student's welfare when and if the student is unable to be met at the designated bus stop.

E. Take the child home in the afternoon if the parent takes or sends his/her child to school, unless otherwise provided for by local school board policy.

F. Make a reasonable and timely effort to notify the bus operator prior to the beginning of the morning run if the child is unable to attend school.

G. Keep the bus loading area free of debris and other obstacles.

H. Any parent of a student with special needs who believes that the transportation services provided for that student are not in compliance with these regulations may utilize the due process procedure as established in the Special Education regulations in accordance with R.S. 17:1941 et seq. (See Bulletin 1886.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:636 (April 1999).

§2511. Transportation of Students with Special Needs who Cannot be Transported by a Regularly Equipped School Bus

A. Parish and city school systems should meet the following requirements in providing transportation for students who cannot be transported by regularly equipped school buses or the regular, established transportation system.

1. Transportation routes will be established by the local school system. These routes must be well planned to ensure economy and efficiency. All existing transportation requirements of the local school system must be considered prior to establishing an additional route.

2. The special education program or class to which students will be transported must meet the requirements of R.S. 17:1941 et seq.

3. Drivers of vehicles on the special routes will neither be subject to provisions of R.S. 17:496 (minimum salary schedule) nor will they be eligible for tenure.

4. Vehicles used on these special routes (private cars, station wagons, vans, etc.) will be subject to safety inspections and carry the necessary insurance coverage required by the local school system.

5. Local school systems will reimburse drivers of vehicles (private cars, station wagons, vans, etc.) approved by the local school system for such purposes at the current state approved rate for reimbursement of mileage on the basis of miles traveled for one round trip per vehicle for each day of attendance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:636 (April 1999).

§2513. Transportation of Residential (Boarding) Students

A. The local school system, as specified in R.S. 17:1941, et seq., has the responsibility of providing special education services to certain children residing within their geographic areas of responsibility. In providing these services the first priority should be to use the facilities and personnel of the local school system, itself.

B. If this is not possible, a request should be made for the child to attend the nearest school in Louisiana, approved by the Special Education Division of the Louisiana State Department of Education, where the child can obtain the required services. If it is not possible to obtain the required services in Louisiana, a request may be made for the child to attend the nearest out-of-state school approved by the Special Education Division of the Louisiana Department of Education.

C. Parish and city school systems must meet the following requirements for transportation of special needs students who cannot be transported on bus routes which are subject to provisions of R.S. 17:495 (School Bus Drivers' Salary Schedule).

1. The special education program or class to which students will be transported must meet the provisions of R.S. 17:1941 et seq. and Regulations for Implementation of R.S. 17:1941 et seq.

2. Drivers of vehicles on these routes shall not be subject to provisions of R.S. 17:495 nor will they be eligible for tenure.

3. Vehicles used on these special routes (private cars, station wagons, vans, etc.) shall be subject to safety inspections and shall carry the necessary insurance coverage as determined by the local school systems.

4. Funds for such transportation services may be used by school systems for transportation to the nearest facility approved by the Louisiana Department of Education only if the local school system is unable to provide the services required by the student with special needs. This need should also be verified by the student's Individual Educational Plan (I.E.P.).

5. Payment for such transportation services shall be made by the local school system at the current state approved rate for the reimbursement of mileage for transportation within the state for a maximum of nine (9) round trips per school year.

6. Payment for such transportation shall be made by the local school system at the current state approved rate for the reimbursement of mileage for transportation out-of-state for two (2) round trips per year providing there is no program within the state that can adequately provide for the special needs of the student.

D. Bulletin 1886, *Special Education Transportation Guide*, provides a detailed description of special education transportation services and guidelines governing such services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:636 (April 1999).

Chapter 27. Reference Sources for Specific Topics

§2701. Topics

A. The topics listed herein after are *not* intended to be all-inclusive, covering every facet of student transportation services in Louisiana. The list is intended to provide Louisiana sources of reference for information regarding some of the topics most frequently questioned and discussed. It is recommended that every school bus driver consult with the local Supervisor of Transportation if additional information or further clarification is required.

B. Louisiana Department of Education Bulletins referenced below are as follows: Bulletin 1191: *School Transportation Handbook* (rev. 1998), Bulletin 1213: *Minimum Standards for School Buses in Louisiana* (rev. 1998), Bulletin 1475: *The Louisiana School Bus Driver Operational and Vehicle Maintenance Procedures* (rev. 1998), and Bulletin 1886: *Special Education Transportation Guide* (rev. 1998).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:637 (April 1999).

§2703. References

A. Eligible (for School Bus Transportation) Students

1. One mile or more from school
 - a. R.S. 17:158
 - b. R.S. 17:2003
 - c. R.S. 17:3381
 - d. Bulletin 1191, Chapter 23
 - e. Bulletin 1886, Section II

2. Less than one mile from school
 - a. R.S. 17:158
 - b. Bulletin 1191, Chapter 23
3. Post-secondary vocational technical facilities
 - a. R.S. 17:2003
4. College students
 - a. R.S. 17:3381

B. Emergency Procedures

1. R.S. 9:2793
2. R.S. 32:398
3. R.S. 37:1732 ("Good Samaritan Law")
4. Bulletin 1191, Chapters 15 and 33
5. Bulletin 1475, Chapters 11 and 27
6. Bulletin 1886, Sections II, III
7. Louisiana CDL Manual, pp. 2.13-2.16

C. First Aid Procedures

1. Bulletin 1475, Chapter 19
2. Bulletin 1886, Section V

D. Guaranteed ("Frozen") Mileage

1. R.S. 17:497
2. Bulletin 1191, Chapter 21

E. Habitual Offender Defined

1. R.S. 32:1472

F. Insurance Against Injury to Students Transported to School

1. R.S. 17:159
2. R.S. 17:159.1
3. R.S. 17:159.2
4. R.S. 32:601
5. R.S. 32:604

G. Minimum Insurance Coverage

1. R.S. 45:162 (17)(18)

H. Passenger Management/Discipline

1. R.S. 14:95.2 (Illegal Weapons)
2. R.S. 17:223
3. R.S. 17:240 (Smoking)
4. R.S. 17:416
5. Bulletin 1191, Chapters 5, 9 and 15
6. Bulletin 1475, Chapters 13 and 17
7. Bulletin 1886, Sections II, IV
8. Louisiana CDL Manual, pp. 4.2-4.3

I. Public Intimidation (of School Bus Drivers)

1. R.S. 14:122

J. Roles and Responsibilities

1. Overview
 - a. R.S. 17:24 (State Department of Education)
 - b. R.S. 17:41 (Attorney General and State Superintendent of Education)
 - c. Bulletin 1191, Chapters 3, 5 and 25
 - d. Bulletin 1475, Chapter 3
 - e. Bulletin 1886, Section I
2. Parish and City School Boards
 - a. R.S. 17:51
 - b. R.S. 17:81
 - c. R.S. 17:104
 - d. R.S. 17:105
 - e. R.S. 17:111
 - f. R.S. 17:491 (Payment for Physical Examinations)
 - g. R.S. 23:897 (Payment for Physical Examinations)

- h. Bulletin 1191, Chapter 5
- i. Bulletin 1475, Chapter 15
- 3. Bus Drivers
 - a. R.S. 17:168 (Extra Duties)
 - b. R.S. 17:491 (Definition of "School Bus Operator")
 - c. R.S. 32:52
 - d. R.S. 32:53
 - e. R.S. 32:58
 - f. R.S. 32:80
 - g. R.S. 32:171 (Railroad Crossing)
 - h. R.S. 32:173 (Railroad Crossing)
 - i. R.S. 32:281 (Backing the School Bus)
 - j. R.S. 32:282
 - k. R.S. 32:328
 - l. R.S. 32:398
 - m. R.S. 32:402
 - n. R.S. 32:404
 - o. R.S. 32:1301
 - p. Bulletin 1191, Chapters 5 and 13
 - q. Bulletin 1475 (All)
 - r. Louisiana CDL Manual, Sections 1-4 and 5 (if appropriate)
- 4. Special Needs Drivers and Bus Attendants (Aides)
 - a. Bulletin 1191, Chapter 25
 - b. Bulletin 1886 (All)
- K. Rules and Regulations: Requirements and Authority
 - 1. R.S. 17:164
 - 2. R.S. 17:165
 - 3. R.S. 17:166
 - 4. R.S. 17:494
- L. School Bus Drivers
 - 1. Compensation
 - a. R.S. 17:495
 - b. R.S. 17:496
 - c. R.S. 17:496.1
 - d. R.S. 17:497
 - e. R.S. 17:497.1
 - f. R.S. 17:497.2
 - g. R.S. 17:498
 - h. R.S. 17:499
 - i. R.S. 17:500.1
 - j. R.S. 17:500.2
 - 2. Driver Selection Requirements
 - a. R.S. 15:587.1 (See also RS 17:578)
 - b. R.S. 17:15
 - c. R.S. 17:491
 - d. R.S. 17:491.1
 - e. R.S. 17:493.1
 - f. R.S. 17:691
 - g. R.S. 32:52
 - h. R.S. 32:402
 - i. R.S. 32:408
 - j. R.S. 32:417
 - k. Bulletin 1191, Chapter 7
 - l. Bulletin 1475, Chapter 5
 - 3. Probation/Tenure for Bus Drivers
 - a. R.S. 17:432
 - 4. Removal from Duty
 - a. R.S. 17:493
- 5. Sick Leave
 - a. R.S. 17:500
 - b. R.S. 17:500.1
 - c. R.S. 17:500.2
- M. School Bus Routes
 - 1. Definition
 - a. Bulletin 1191, Chapter 21
 - b. Bulletin 1475, Chapter 15
 - 2. Design/Measurement/Assignment
 - a. R.S. 17:493.1
 - b. R.S. 17:1747(E)
 - c. Bulletin 1191, Chapter 21 and 31
 - d. Bulletin 1475, Chapter 15
 - e. Bulletin 1886, Section II, Appendix C
 - 3. Discontinuance for Economically Justifiable Reasons
 - a. R.S. 17:158
 - b. R.S. 17:492
 - 4. Filling Vacancies
 - a. R.S. 17:493.1
 - b. R.S. 17:493.1(D)
 - c. R.S. 17:500
- N. School Buses
 - 1. Capacities
 - a. R.S. 17:158.4
 - b. R.S. 17:32:293 ("Standee Law")
 - c. Bulletin 1213, Chapter 5
 - d. Bulletin 1475, Chapter 9
 - 2. Definition/Types
 - a. Bulletin 1213, Chapter 5
 - b. Bulletin 1475, Chapter 29
 - 3. Inspection
 - a. R.S. 32:53
 - b. R.S. 32:1301
 - c. R.S. 32:1302
 - d. Bulletin 1191, Chapters 5 and 13
 - e. Bulletin 1475, Chapters 7 and 25
 - f. Louisiana CDL Manual, pp. 2.1-2.12, 4.1-4.2, 4.5
 - 4. Maximum Speed Limits
 - a. R.S. 32:62
 - b. Bulletin 1475, Chapter 9
 - 5. Purchases
 - a. R.S. 17:158.1
 - b. R.S. 17:158.2
 - c. R.S. 17:158.3
 - d. R.S. 17:158.4
 - e. R.S. 17:158.5
 - f. R.S. 17:162 (Private Use)
 - g. R.S. 17:163
 - h. R.S. 17:493
 - i. R.S. 17:497
 - j. R.S. 47:301 (Sales Tax Exemption for Certain School Buses)
 - 6. Specifications
 - a. R.S. 17:158.5
 - b. R.S. 17:161 (See RS 17:163)
 - c. R.S. 17:164
 - d. R.S. 17:164.1 (Crossing Control Device)
 - e. R.S. 30:751 (Alternative Fuels Requirement)
 - f. R.S. 30:752 (Alternative Fuels Requirement)

- g. R.S. 32:53
- h. R.S. 32:282
- i. R.S. 32:308
- j. R.S. 32:318
- k. R.S. 32:375
- l. R.S. 32:378(D) (Audible Backing Alarm)
- m. R.S. 32:1301
- n. R.S. 39:362.1 (Alternative Fuels Requirement)
- o. Bulletin 1213 (All)
- p. Federal Guide 17
- q. Federal Motor Vehicle Standards for School Buses
- O. Special Fuels (LPG and CNG) Tax Reduction
 - 1. R.S. 47:802(F)
 - 2. R.S. 47:803
- P. Special Provisions for Special Education Students who Cannot be Transported by School Bus
 - 1. Bulletin 1191, Chapter 25
 - 2. Bulletin 1886, Appendix D
- Q. Toll-Free Ferry and Bridge Passage for Students
 - 1. R.S. 17:157
- R. Training Requirements
 - 1. R.S. 17:497.3
 - 2. Bulletin 1191, Chapter 9
 - 3. Bulletin 1475, Chapter 5
 - 4. Bulletin 1886, Section II
 - 5. Public Law 105-17 (IDEA)
- S. Vehicle License Fees
 - 1. R.S. 47:466
 - 2. R.S. 47:468
- T. Vehicles Meeting and Overtaking School Buses
 - 1. R.S. 32:80

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:637 (April 1999).

Chapter 29. Louisiana Revised Statutes

§2901. Legislature

A. The Louisiana Legislature from time to time enacts laws dealing with school transportation. Every school official (principal, supervisor, superintendent, etc.) should become familiar with the statutes affecting this program. The statutes referenced section represent the minimum knowledge of school transportation laws school officials should possess in carrying out their responsibilities for the safe transportation of school children.

B. This is not a legal document, nor is it intended to serve as a basis for legal interpretation. The statutes contained herein have been referenced only. School officials are urged to seek legal opinions of local school board attorneys, district attorneys throughout the state, State Department of Education Attorneys, and/or the State Attorney General prior to formulating policies affecting the school transportation program.

C. School transportation officials are urged to seek the advice of legal counsel prior to advising school boards with respect to school transportation laws, rules, regulations and policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:639 (April 1999).

§2903. Statutes

- A. Title 9—Civil Code Ancillaries
 - 1. Source: R.S. 9:2793—Gratuitous services at scene of emergency; limitation of liability.
 - 2. Source: R.S. 14:122—Public intimidation (of bus drivers).
- B. Title 14—Criminal Law
 - 1. Source: R.S. 14:95—Illegal carrying of weapons.
- C. Title 15—Criminal Procedure
 - 1. Source: R.S. 15:578—Functions, powers and duties of the bureau, crime laboratory.
 - 2. Source: R.S. 15:587.1—Provision of information to protect children.
- D. Title 17—Education
 - 1. Source: R.S. 17:15—Criminal history review.
 - 2. Source: R.S. 17:24—State Department of Education: Creation Division.
 - 3. Source: R.S. 17:41—Attorney general and state superintendent; Opinion and advise.
 - 4. Source: R.S. 17:51—Parish boards as bodies corporate; Power to sue and be sued; Service of citation.
 - 5. Source: R.S. 17:54—Officer of boards, elections; parish superintendent, qualifications, appointment and removal.
 - 6. Source: R.S. 17:59—General fund of parish school boards.
 - 7. Source: R.S. 17:81—General powers of board.
 - 8. Source: R.S. 17:88—Budget of expected revenues and expenditures; board duty to adopt; submission to state superintendent of education with a copy to the legislative auditor.
 - 9. Source: R.S. 17:104—Authority and responsibility of local boards; factors to be considered.
 - 10. Source: R.S. 17:105—Admission to schools in adjoining parishes.
 - 11. Source: R.S. 17:111—Discrimination in public schools prohibited; pupil assignment; religious education institutions.
 - 12. Source: R.S. 17:157—Ferries and toll bridges, etc.; free passage to school children.
 - 13. Source: R.S. 17:158—School buses for transportation of students; employment of bus operators; alternative means of transportation; improvement of school bus turnarounds.
 - 14. Source: R.S. 17:158.1—Purchase of school buses; athletic departments of high schools.
 - 15. Source: R.S. 17:158.2—Purchase of school buses; resale to bus operators.
 - 16. Source: R.S. 17:158.3—Purchase of school buses; pooling of purchases by school boards.
 - 17. Source: R.S. 17:158.4—Purchase of school buses; ninety passenger capacity.
 - 18. Source: R.S. 17:158.5—Purchase of school buses, specifications required.

19. Source: R.S. 17:159—Insurance against injury to pupils transported to school.
20. Source: R.S. 17:159.1—Insurance on privately owned school buses; withholding amounts to pay premiums; governmental immunity no defense.
21. Source: R.S. 17:159.2—Insurance premiums as obligations of boards; privately owned buses.
22. Source: R.S. 17:161—School buses to be painted national school bus chrome yellow.
23. Source: R.S. 17:162—School buses purchased for private use.
24. Source: R.S. 17:163—Penalties.
25. Source: R.S. 17:164—Regulations relating to construction, design, equipment and operation of school buses.
26. Source: R.S. 17:164.1—Crossing control devices for school buses.
27. Source: R.S. 17:165—Penalty for violation of regulations.
28. Source: R.S. 17:166—Promulgation of rules and regulations.
29. Source: R.S. 17:168—Cities or parishes with 300,000 or more population; extra duties of school bus operators.
30. Source: R.S. 17:223—Discipline of pupils; suspension from school.
31. Source: R.S. 17:225—Minimum attendance required.
32. Source: R.S. 17:240—Smoking prohibited.
33. Source: R.S. 17:416—Discipline of pupils; suspension; expulsion.
34. Source: R.S. 17:428—Supervisors, principals, teachers and other employees prohibited from serving on employing school boards; service on neighboring or other school board.
35. Source: R.S. 17:432—Probation/tenure of school bus drivers.
36. Source: R.S. 17:491—Definitions.
37. Source: R.S. 17: 491.1—Reemployment driving record examination.
38. Source: R.S. 17:492—Probation and tenure of bus operators.
39. Source: R.S. 17:493—Removal of bus operators; procedures; right to appeal.
40. Source: R.S. 17:493.1—Tenured bus drivers; route closest to their homes; vacancies.
41. Source: R.S. 17:493.1(D)—Vacancies: persons willing to acquire bus.
42. Source: R.S. 17:494—Rules and regulations impairing provisions prohibited.
43. Source: R.S. 17:495—Establishment of minimum salary schedules.
44. Source: R.S. 17:496—Minimum salaries.
45. Source: R.S. 17:496.1—Minimum salaries.
46. Source: R.S. 17:497—School bus operational schedules.
47. Source: R.S. 17:497.1—Operation compensation for certain school bus operators.
48. Source: R.S. 17:497.2—Remuneration for inservice training programs.
49. Source: R.S. 17:497.3—In-service training; schedule.
50. Source: R.S. 17:498—Ownership of buses; determination of salary.
51. Source: R.S. 17:499—Insufficiency of appropriation; effect.
52. Source: R.S. 17:500—Sick leave for school bus operators.
53. Source: R.S. 17:500.1—School bus operator; sick leave.
54. Source: R.S. 17:500.2—School bus operators; salary while on leave deductions.
55. Source: R.S. 17:691—Bus driver selection requirements.
56. Source: R.S. 17:1747(E)—Design and measurement of bus routes.
57. Source: R.S. 17:2003—Bus transportation.
58. Source: R.S. 17:3381—Transportation for college students; transportation for other students subject to restrictions; authority to establish and collect bus transportation fees.
- E. Title 23—Mineral and Environment
1. Source: R.S. 23:897—Payment for physical examination.
- F. Title 30—Labor and Workers' Compensation
1. Source: R.S. 30:751—Alternative fuel requirements.
2. Source: R.S. 30:752—Alternative fuel requirements.
- G. Title 32—Motor Vehicle and Traffic Regulations
1. Source: R.S. 32:1—Definitions.
2. Source: R.S. 32:1—Uniform application.
3. Source: R.S. 32:52—Driver must be licensed.
4. Source: R.S. 32:53—Proper equipment required on vehicles.
5. Source: R.S. 32:57—Penalties.
6. Source: R.S. 32:58—Reasonable and proper control of vehicle.
7. Source: R.S. 32:62—Maximum speed vehicles limit; certain vehicles.
8. Source: R.S. 32:80—Overtaking and passing school buses.
9. Source: R.S. 32:171—Obedience to signal indicating approach of train.
10. Source: R.S. 32:173—Certain vehicles must stop at all railroad grade crossings.
11. Source: R.S. 32:281—Limitations on backing.
12. Source: R.S. 32:282—Obstruction to driver's view or driving mechanism.
13. Source: R.S. 32:293—Seating capacity of school buses; prohibiting standing of school children under certain circumstances; limiting number of children transported at one time.
14. Source: R.S. 32:308—Additional equipment on buses, trucks, truck tractors, trailers, semi-trailers and pole trailers.
15. Source: R.S. 32:318—Audible and visual signals on certain vehicles.
16. Source: R.S. 32:328—Special lighting equipment on school buses.

17. Source: R.S. 32:378—School bus body; bumpers; color of paint.

18. Source: R.S. 32:393.1—Records of convictions; extracts; fees.

19. Source: R.S. 32:398—Accident report; when and to whom made; information aid; fees for copies; fees for accident photographs.

20. Source: R.S. 32:402—All drivers must secure license.

21. Source: R.S. 32:403.1—Application of persons sixty years of age or above.

22. Source: R.S. 32:404—Operation of motor vehicles by nonresidents.

23. Source: R.S. 32:408—Examination of applicants required; classes of license.

24. Source: R.S. 32:414—Suspension, revocation and cancellation of license; judicial review.

25. Source: R.S. 32:417—Allowing unlicensed minor to drive parents responsible; rentals to unlicensed persons; lessor responsible; hiring unlicensed drivers; employer responsible.

26. Source: R.S. 32:601—Public liability, bodily injury and property damage insurance.

27. Source: R.S. 32:604—Actions, parties.

28. Source: R.S. 32:1301—Vehicle without required equipment or in unsafe condition.

29. Source: R.S. 32:1302—Inspection by officers of the department.

30. Source: R.S. 32:1472—Habitual offender defined.

31. Source: R.S. 45:162(17)(18)—Minimum insurance coverage.

H. Title 37—Professions and Occupations

1. Source: R.S. 37:1732—Immunity from liability for emergency medical assistance of first aid.

I. Title 42—Public Officers and Employees

1. Source: R.S. 42:691—Compulsory, retirement of public employees because of age.

J. Title 47—Revenue and Taxation

1. Source: R.S. 47:301—Sales tax exemption for certain school buses.

2. Source: R.S. 47:466—Commercial passenger vehicle license fees.

3. Source: R.S. 47:802(F)—Special fuel (LPG and CNG) tax reduction.

4. Source: R.S. 47:803—Special fuels (LPG and CNG) tax reduction.

5. Source: R.S. 47:468—School and charity buses.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:639 (April 1999).

Chapter 31. Definition of Terms

§3101. Definitions

Eligible Student—R.S. 17:158 states: "Each parish and city school board shall provide transportation for any student attending a school of suitable grade approved by the State Board of Elementary and Secondary Education if the student resides more than one mile from such school and the school is within the jurisdiction boundaries of the parish or school board."

1. Paragraph F states: "The provisions of this section shall apply to eligible public and nonpublic school students. However, these provisions shall not apply to any student who attends a school which discriminates on the basis of race, creed, color or national origin."

Feeder Trip (Run)—transportation of students in private vehicles or means other than conventional bus to a designated pick-up point on a route. Feeder trip drivers are not paid as regular school bus drivers.

One-Mile Measurement—walking distance from student's driveway or entrance to the nearest public road to the walking entrance of the school building. The distance shall be measured by the most direct route, and may be along roads or walkways.

Platoon Trip (Run)—transportation of students from their home based school to another school and returning them to their home based school. Example: When instructional programs mandate that students be transported during the normal school day to a school other than the designated school of attendance.

1. Operational pay for platoon trip mileage must be started from zero mileage. No base salary is supplemented from the State Department of Education.

Preventable School Bus Accident—any accident involving a school bus resulting in death, injury or property damage, which the school bus driver failed to take all reasonable measures to prevent.

Route—the term *route* shall apply to the combined total daily trips (or runs) regularly assigned to the bus driver.

Transportation of Students Within One Mile of School—Refer to R.S. 17:158.

Trip—a trip (run) is that segment of a route in which passengers are picked up at the home bus stop and all passengers are discharged at school destination, or visa versa.

School Bus Accident—any incident in which a school bus is involved that results in death, personal injury and/or property damage, regardless of who was responsible. This applies whether the school bus was in motion, temporarily stopped, parked, being loaded, or unloaded and on public or private property.

School Bus Driver—any employee of any city or parish school board whose duty it is to transport students in any city or parish school bus or activity bus to and from any school of suitable grade approved by the Department of Education or to and from a school related activity, and who has met all the criteria established for certification and has been certified by the Department of Education. (R.S. 17:491)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:641 (April 1999).

Chapter 33. Conducting Emergency Exit Drills

§3301. Exit Drills

A. The ever increasing number of accidents on the highways necessitates that pupils be instructed on how to properly evacuate a school bus in case of an emergency. Schools shall organize and conduct emergency drills for all pupils who may ride school buses.

- B. There are several different drills:
1. everyone exits through the front entrance door;
 2. everyone exits through the rear or side emergency door(s);
 3. front half exits through the front door and rear half exits through the rear or side door;
 4. passengers utilize other emergency exits installed on specific buses.

NOTE: There is possible danger when a pupil jumps from emergency door exits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:641 (April 1999).

§3303. Reasons For Emergency Evacuations

A. Fire or Danger of Fire—the bus should be stopped and evacuated immediately if the engine or any portion of the bus is on fire. Pupils should move to a safe place 100 feet or more from the bus and remain until the driver of the bus has determined that no danger exists. Being near an existing fire and unable to move the bus away, or being near the presence of gasoline or other combustible material should be considered as "danger of fire," and pupils should be evacuated.

B. Unsafe Position—in the event that a bus is stopped due to an accident, mechanical failure, road conditions or human failure, the driver must determine immediately whether it is safe for pupils to remain in the bus or evacuate.

C. Mandatory Evacuations—the driver must evacuate if any of these conditions exist.

1. The final stopping point is in the path of any train or adjacent to any railroad tracks.

2. The stopped position of the bus changes and increases the danger. If, for example, a bus should come to rest near a body of water or near the edge of a cliff, it should be evacuated. The driver should be certain that the evacuation is carried out in a manner that affords maximum safety for the pupils.

3. The stopped position of the bus is such that there is danger of collision. In normal traffic conditions, the bus should be visible for a distance of 300 or more feet. A position over a hill or around a curve where such visibility does not exist should be considered reason for evacuation.

D. Important factors pertaining to school bus evacuation drills.

1. Safety of pupils is of the utmost importance and must be considered first.

2. All drills should be supervised by the principal or by persons assigned to act in a supervisory capacity.

3. The bus driver is responsible for the safety of the pupils; however, in an emergency, the driver may be incapacitated and unable to direct the pupil emergency evacuation. School patrol members, appointed pupils or adult monitors should direct these drills. It is important to have regular substitutes available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:642 (April 1999).

§3305. Pupils

A. Pupil Qualifications:

1. mature;
2. a good citizen, and
3. lives near the end of bus line.

B. Pupil should know how to:

1. turn off ignition switch;
2. set emergency brake;
3. summon help when and where needed;
4. use kick out windows.;
5. set reflectors and flares;
6. open and close doors and account for all pupils passing his station;
7. help small pupils off bus;
8. perform other assignments.

C. Written consent from parents should be obtained before assigning a pupil as a leader.

D. School bus evacuation drills should be organized in a manner similar to fire drills held regularly in schools. The drills should be held more often during fall and spring months, preferably when the bus arrives at the school building with the pupils.

E. Drills should be held on school property and not on bus routes. The types of bus drills held should be varied.

F. Drivers should stay in the bus during evacuation drills, and be sure that the parking brake is set, ignition is off and the transmission in gear.

G. Drivers must not permit pupils to take lunch boxes, books, etc. with them when they leave the bus. Getting the pupil off safely in the shortest possible time and in orderly fashion is the objective.

H. The pupils should go to a distance of at least 100 feet from the bus in an "emergency drill" and remain there in a group until further directions by the leader.

I. All pupils should be given an opportunity to participate, including those pupils who only ride a bus on special trips.

J. Each pupil should be instructed in the proper safety precautions while riding the bus and in drill procedures.

K. Pupils should be instructed in how and where to get help in emergencies. Instructions and telephone numbers should be posted or otherwise carried in school buses.

L. Principals must fill out Form T-8 and forward all forms to the Transportation Supervisor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:642 (April 1999).

§3307. Commercial Motor Vehicle Safety Act of 1986

A. Employer Notification Form—the Commercial Motor Vehicle Safety Act of 1986 requires drivers of commercial motor vehicles to possess only one driver's license and to be disqualified when operating a commercial motor vehicle in an unsafe manner. The undersigned employee acknowledges that he/she understands the requirements of Part 383 of the Federal Motor Carrier Safety Regulations and attest that the information contained on this form is correct to the best of his/her ability and knowledge.

Title 28
EDUCATION

**Part XXV. Bulletin 1213—Minimum Standards for
School Buses in Louisiana**

(Editor's Note: Bulletin 1213 was adopted by the Board of Elementary and Secondary Education in January, 1973 in an uncodified format, amended LR 4:428 (November 1978), LR 5:243 (August 1979), LR 8:526 (October 1982), LR 9:130 (March 1983), LR 13:291 (May 1987), LR 14:348 (June 1988), LR 14:789 (November 1988), LR 15:544 (July 1989), LR 15:962 (November 1989), LR 16:956 (November 1990), LR 16:1055 (December 1990), LR 21:259 (March 1995), and LR 23:1645 (December 1997). This present revision is being published in codified form, hence historical notes will reflect a history, by section, from this time forward.)

Chapter 1. Purpose

§101. Introduction

A. One of the most important functions of a school system's operation relative to pupil transportation is the purchasing, operation, and maintenance of safe school buses. This bulletin is designed to provide School Boards with a list of minimum standards which would allow for safe transportation of pupils. It enables bus dealers to bid competitively based on uniform standards which meet minimum specifications for every school district in the state. In addition, Optional Equipment Standards have been made a part of this bulletin in order to assist transportation officials in designing school buses which meet their specific needs.

B. The Department of Education is especially indebted to these Transportation Supervisors who have donated their valuable time and effort to the revision of this important document.

Bill Samec, Chairman	Lafayette Parish Schools
Dale Boudreaux	Jefferson Parish Schools
Chris Bowman	Lafourche Parish Schools
Harry Levy	Jefferson Davis Parish Schools
Jimmy Sibille	St. Landry Parish Schools

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:643 (April 1999).

§103. Forward

A. All pupil transportation vehicles purchased on or after July 1, 1998, shall meet or exceed the requirements herein. The appropriate sections of these specifications apply to all school buses for pupil transportation in Louisiana which are purchased, owned, or operated by a district board of education and to all school buses leased or contracted to a district board of education by private owners for the transportation of pupils to and from school and all school-related activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:643 (April 1999).

Chapter 3. General Provisions

§301. Federal Motor Vehicle Safety Standards

A. All school buses shall meet or exceed the minimum requirements of these specifications and meet or exceed all applicable Federal Motor Vehicle Safety Standards (FMVSS).

1. Subpart B—License Requirements—an employee operating a commercial motor vehicle can only have one valid driver's license issued by their state or jurisdiction of domicile.

2. Subpart C—Notification Requirements—an employee convicted of violating a state or local law relating to motor vehicle traffic control (other than parking violations), in any type of motor vehicle, must notify their employer within 30 days of conviction.

B. When an employee receives notice of suspension, revocation, cancellation, loss of privilege disqualification, and/or right to operate a commercial motor vehicle by any state or jurisdiction, the employee must notify their employer before the end of the business day following the day the employee received the notice.

C. Any employee violating Subpart B, License Requirements, and/or Subpart C, Notification Requirements, may be subject to fines not exceeding \$2,500 and/or criminal penalties up to \$5,000 including jail time.

1. Subpart D—Driver Disqualifications and Penalties—an employee convicted of driving while under the influence, leaving the scene of an accident or commission of a felony while operating a commercial motor vehicle, may be disqualified for a period of time determined by agency of jurisdiction, or may be disqualified from driving a commercial vehicle for life for a second serious offense.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:642 (April 1999).

Weegie Peabody
Executive Director

9904#044

RULE

Board of Elementary and Secondary Education

Bulletin 1213—Minimum Standards for School Buses
(LAC 28:XXV.Chapters 1-17)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., the State Board of Elementary and Secondary Education adopted revised Bulletin 1213 promulgated in LR 2:187 (June 1976), referenced in LAC 28:I.915.B. Bulletin 1213 provides the minimum specifications for all pupil transportation purchased, owned or operated by a school district board of education or all school buses leased or contracted by said board. The specifications also address those buses leased or contracted to a district board of education by private owners. The revision of Bulletin 1213 was required to comply with state law and changes in the Federal Vehicle Safety Standards. This action is not required by federal regulations.

B. All school buses shall be equipped as required by the minimum specifications contained herein and as required by applicable FMVSS.

C. In the event of a conflict between the requirements of an applicable FMVSS, as referred to in §301, and the minimum specifications contained in this regulation, the requirements of the FMVSS shall prevail.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:643 (April 1999).

§303. Used School Buses

A. Any used school bus purchased for use in Louisiana by or for a school system shall meet current legal requirements of the Louisiana Revised Statutes for motor vehicles and shall meet Louisiana specifications for school buses that were in effect on the date the vehicle was manufactured.

B. No school bus may be replaced by another school bus that was manufactured before the 1978 model year. This applies to buses purchased by veteran owners/operators, by newly hired owners/operators and by school boards, individual schools, booster clubs, etc. for the purposes of transporting children to and from school and school-related activities and for use as spare buses.

C. All replacement school buses, at the time they are acquired by the owner, must be ten (10) or *less* model years old for veteran owners/operators and school districts and five (5) or *less* model years old for newly hired owners/operators. The number of years shall be reckoned from the date of introduction of the model year. (Example, a 1988 model school bus is considered 10 model years old as of 1998.)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999).

§305. Changes in Specifications

A. Any part of these specifications may be changed at any time by addenda adopted by the State Board of Elementary and Secondary Education. Changes will be made to comply with changing FMVSS or statutes of the Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999).

§307. Certification by Manufacturers

A. All school bus vendors shall certify to the purchaser (local education agency, contract or individual), upon delivery that the school bus(es) sold for use by Louisiana school systems meet or exceed all standards specified herein and comply with the applicable FMVSS set forth by the United States Department of Transportation. (See §1701—T-10 Form)

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999).

§309. Repairs

A. Any repairs or alterations to any bus that falls under the guidelines of Bulletin 1213 shall be made in accordance with

all specifications contained herein and all applicable FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999).

§311. Responsibility of Dealers and Manufacturers

A. The responsibility of compliance with Bulletin 1213 specifications rests with the vendors and manufacturers.

B. If any vendor or manufacturer sells school transportation equipment that does not conform to all these and all other applicable State and Federal specifications, the vendor shall be required to make necessary conversions to bring the vehicle into compliance. All cost related to such alteration shall be borne by the vendor.

C. Local school systems shall have the option of imposing additional specifications that meet or exceed state and federal standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999).

§313. Completion of Form T-10

A. It is mandatory that the seller of any new or used school bus shall complete a T-10 form verifying that the purchased vehicle meets all state and federal school bus specifications applicable at the time of manufacture.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999).

§315. Sanction

A. Any school bus that does not meet the minimum specifications set forth in Bulletin 1213 must not be used until such time that the bus is in compliance with said Bulletin.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999).

Chapter 5. Bus Body Standards

§501. Definition of School Bus Types

Type A—a conversion or body constructed and installed upon a van-type compact truck or front-section vehicle, with a gross vehicle weight rating of 10,000 pounds or less, designed for carrying more than 10 persons.

Type B—a conversion or body constructed and installed upon a van or front-section chassis, or stripped chassis, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. Part of the engine is beneath and/or behind the windshield and beside the driver's seat. The entrance door is behind the front wheels.

Type C—a body installed upon a flat back cowl chassis with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. All of the engine is in front of the windshield and the entrance door is behind the front wheels.

Type D—a body installed upon a chassis, with the engine mounted in the front, midship, or rear, with a gross vehicle weight rating of more than 10,000 pounds, designed for carrying more than 10 persons. The engine may be behind the windshield and beside the driver's seat. It may be at the rear

of the bus, behind the rear wheels, or midship between the front and rear axles. The entrance door is ahead of the front wheels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:644 (April 1999).

§503. Aisles

A. Minimum clearance of all aisles shall comply with current FMVSS, *School Bus Passenger Seating and Crash Protection*. All emergency doors shall be accessible by a 12" minimum aisle.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:645 (April 1999).

§505. Auxiliary Fan

A. An auxiliary fan at least six (6) inches in diameter shall be located in the center of the windshield to provide maximum effectiveness for the right side of the windshield and the service door.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:645 (April 1999).

§507. Back Up Audible Alarm

A. Every new and used bus purchased shall be equipped with an automatic back-up audible alarm which sounds on backing. It must be capable of emitting sound audible under normal conditions from a distance of not less than one hundred feet. The alarm shall also be capable of operating automatically when the vehicle is in neutral or a forward gear but rolls backward.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:645 (April 1999).

§509. Battery

A. The battery is to be furnished by the chassis manufacturer. The body manufacturer shall securely attach the battery on a slide out or swing tray in a closed, vented compartment in the body skirt, so that the battery is accessible for convenient servicing from the outside. Battery compartment door or cover shall be hinged at the front or top, and secured by an adequate and conveniently operated latch or other type fastener.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:645 (April 1999).

§511. Body Size

A. The "body length" shall be measured from the inside surface of the windshield to the outside surface at the rear of the bus.

5	29/30	24/25
6	35/36	29/30
7	41/42	34/35
8	47/48	39/40
9	53/54	44/45
10	59/60	49/50
11	65/66	54/55
12	71/72	59/60
13	77/78	64/65
14	83/84	69/70
15	89/90	74/75

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:645 (April 1999).

§513. Bumpers

A. The front and rear bumpers shall meet current FMVSS. The front bumper shall extend to the outer edges of the fenders. The rear bumper shall be 10" in width and wrapped around the back corners of the bus extended forward at least 12".

B. No trailer hitch or other device designed for towing shall be designed, fixed, or attached upon any school bus operated in the State of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:645 (April 1999).

§515. Ceiling

A. Ceiling specifications shall meet all current FMVSS. AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:645 (April 1999).

§517. Color

A. The school bus body, including hood and fenders, shall be painted "National School Bus Yellow."

B. The body trim, including mirrors and rub rails, shall be glossy black.

C. The grill shall be black or grey.

D. The rear bumper and lettering shall be glossy black.

E. The wheels shall be black or grey.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:645 (April 1999).

§519. Construction

A. The construction of the school bus body shall be in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

Number of Rows of Seats	PUPIL CAPACITY	
	3-3 Plan Rump Width of 13 Inches	3-2 Plan Rump Width of 13 Inches
4	23/24	19/20

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:645 (April 1999).

§521. Crossing Control Device

A. Every new and used bus purchased shall be equipped with a crossing control device actuated by the driver and operated in conjunction with the stop arm. The crossing control device shall pivot out from the right side of the front bumper to prevent persons from walking in front of the bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:646 (April 1999).

§523. Defrosters

A. Defrosters shall be of sufficient capacity to keep the windshield, window to the left of the driver, and glass in the entrance door clear of fog, frost, and snow. Defrosters shall be constructed to meet current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:646 (April 1999).

§525. Doors—Service and Emergency

A. Service and emergency doors shall be constructed and located in compliance with current FMVSS.

B. The emergency door shall be marked directly above the door with the words EMERGENCY DOOR or EMERGENCY EXIT on both the inside and outside of the bus in letters at least two (2) inches high.

C. No decals or other markings may be placed on either emergency glass panel.

D. The installation of locks on the emergency and service doors shall include a device to prevent the activation of the starter mechanism while the emergency door is locked.

E. There shall be no manual locking of any doors while the bus is in operation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:646 (April 1999).

§527. Electrical System

A. The electrical system shall be in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:646 (April 1999).

§529. Fire Extinguisher

A. Each bus shall be equipped with at least one dry-chemical type fire extinguisher with a gauge of at least five (5) pound capacity, Type A, B, C, mounted in the manufacturer's bracket and located in the driver's compartment in a clearly marked location. The fire extinguisher shall bear the label of Underwriters' Laboratories, Inc. showing a rating of not less than 2A-10B; C.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:646 (April 1999).

§531. First Aid Kit

A. The bus shall have a removable moisture proof and dust proof first aid kit mounted in an accessible area within the driver's compartment, and shall be marked to indicate its location.

B. A minimum unit shall include the following supplies:

2	single units	Adhesive Tape—1 inch x 2 1/2 yards
2	single units	Sterile Gauze Pads—3 inches x 3 inches (12 per unit)
1	single unit	Adhesive Bandage—3 inches x 3/4 inches (100 per unit)
1	single unit	Bandage Compress—2 inch (12 per unit)
1	single unit	Bandage Compress—3 inch (12 per unit)
2	single units	Sterile Gauze Roller Bandage—2 inches x 6 yards
2	single units	Non-sterile Triangular Bandage—approximately 40 inches x 36 inches x 54 inches with 2 safety pins
3	single units	Sterile Gauze—36 inches x 36 inches (U.S.P. 2428 count)
3	single units	Sterile Eye Pad—(1 per unit)
1	pair	Scissors

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:646 (April 1999).

§533. Floor

A. The floor shall meet current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:646 (April 1999).

§535. Heaters

A. Heaters shall be constructed and installed in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:646 (April 1999).

§537. Identification

A. Only lettering and signs approved by state law or regulation shall appear on school buses. Lettering shall be limited to the name of the owner or operator necessary for identification, including the name of the parish/city school system. All lettering shall be in block form.

1. The lettering shall be placed as high as possible to provide maximum visibility and conform to "series B" of Standard Alphabets for Highway Signs. (Contact the National Commission on Safety Education; 1201 Sixteenth Street NW, Washington, D.C., 20036 for more information.)

B. All letters and numbers used for identification purposes shall be in glossy black enamel or glossy black vinyl decals.

1. The numbers located on the front bumper shall be of contrasting color.

C. The body shall bear the words SCHOOL BUS in glossy black letters at least eight (8) inches high on both the front and rear of the school bus or on signs attached thereto.

D. The numbering system on school buses shall be a minimum of five (5) inches in height and is required in and limited to four locations.

1. On the right side of the bus, it is behind the service door below the window line and not to exceed twenty-four (24) inches below this point.

2. On the left side, it is directly below the driver's window.

3. On the rear, it is beneath the right rear tail light.

4. On the front, it is either in the center of the front bumper, the right side of the bumper, or on a panel along the bumper. The numbers on the front bumper shall be of contrasting color to the bumper.

E. The bus shall have the name of the owner on the left side of the bus under the driver's side window in glossy black lettering at least two (2) inches in height, but not more than four (4) inches in height. The name should be the owner's legal name and should not contain nicknames, handles, etc.

F. Only the following signs/decals are approved for use on school buses:

1. decals indicating handicapped riders are on board;

2. a decal indicating the school bus stops for all railroad crossings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:646 (April 1999).

§539. Inside Height

A. The inside height shall be a nominal seventy-two (72) inches or more, measured metal to metal, at any point on the longitudinal centerline from front vertical bow to rear vertical bow.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:647 (April 1999).

§541. Lamps and Signals

A. All school buses shall be equipped with lamps and reflectors in accordance with current FMVSS.

B. Two reflex reflectors shall be installed on each side of the bus, one at or near the front and one at or near the rear.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:467 (April 1999).

§543. Length and Width

A. The overall width of the bus shall not exceed eight (8) feet and the overall length shall not exceed forty (40) feet.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:647 (April 1999).

§545. Metal Treatment

A. All metal used in the construction of the bus shall be in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:647 (April 1999).

§547. Mirrors

A. All buses shall be equipped with an interior mirror mounted so the driver can view the entire interior of the bus while in a normal seated driving position.

1. The interior mirror shall have rounded corners and protected edges.

B. All exterior mirrors shall be in compliance with current FMVSS.

1. All buses shall be equipped with two (2) exterior mirrors (one on each side) each giving an unobstructed view from the mounting position to the rear of the bus while the driver is in a normal seated driving position. The exterior mirrors shall be easily adjustable and rigidly mounted to reduce vibration.

C. Each bus shall have a mirror system which provides a clear, unobstructed view of the area in front of the bus and immediately adjacent to the right and left front wheels and at the entrance door.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:647 (April 1999).

§549. Mounting

A. The body shall be mounted on the chassis in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:647 (April 1999).

§551. Mud Flaps

A. All buses shall be equipped with mud flaps on the rear of the vehicle or immediately behind the rear wheels.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:647 (April 1999).

§553. Overhead Storage

A. Overhead storage compartments or racks are not allowed in the passenger compartment of any bus.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:647 (April 1999).

§555. Rub Rails

A. All buses shall be equipped with two rub rails constructed and installed in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:647 (April 1999).

§557. Seat Belt for Driver

A. A lap belt/shoulder harness seat belt for the bus driver shall be provided in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:647 (April 1999).

§559. Seats

A. All seats and seat covering shall be in compliance with current FMVSS.

B. All seats shall be forward facing and securely fastened to the floor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:648 (April 1999).

§561. Steering Wheel

A. The steering wheel shall be constructed and installed in compliance with current FMVSS and have a minimum clearance of at least two (2) inches between the steering wheel and the cowl instrument panel.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:648 (April 1999).

§563. Steps

A. All steps shall be constructed and installed in compliance with current FMVSS.

B. The first step at the service door shall not be less than ten (10) inches and not more than fourteen (14) inches from the ground when measured from the top of the step.

C. Steps shall be enclosed to prevent the accumulation of ice and snow.

D. At least one device shall be designed to assist passengers during ingress and egress, and be of such design as to eliminate entanglement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:648 (April 1999).

§565. Stop Signal Arms

A. All school buses shall be equipped with two semaphore arms, constructed and placed in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:648 (April 1999).

§567. Sun Shield

A. The sun shield shall be a minimum of six (6) inches X thirty (30) inches, adjustable, transparent, and mounted on two brackets.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:648 (April 1999).

§569. Undercoating

A. The entire underside of the bus body, including floor sections, cross members, and below floor line side panels, shall be coated with rust-proofing compound for which the compound manufacturer has issued notarized certification of compliance to the bus body builder that the compound meets or exceeds all performance and qualitative requirements of paragraph 3.4 of Federal Specification TT-C-520B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:648 (April 1999).

§571. Ventilation

A. The body shall be equipped with a suitable controlled ventilating system of sufficient capacity to maintain proper quantity of air under operating conditions, without having to open windows except in extremely warm weather.

B. Static-type non-closeable exhaust ventilation shall be installed in low-pressure area of roof.

C. Roof hatches designed to provide ventilation, regardless of the exterior weather conditions, may be provided.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:648 (April 1999).

§573. Weight Distribution

A. Weight distribution of a fully-loaded bus on a level surface shall be such as not to exceed the manufacturer's front gross axle rating and rear gross axle weight rating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:648 (April 1999).

§575. Wheel Housing

A. The wheel housing shall allow for easy tire removal and servicing and be designed to support seat and passenger loads.

B. The wheel housing shall be attached to the floor sheets in such a manner as to prevent any dust or water from entering the bus body and have an inside height of ten (10) inches or less.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:648 (April 1999).

§577. Windows

A. Each full side window, other than emergency exits designated to comply with FMVSS 217, shall provide an unobstructed emergency opening of at least nine (9) inches, but not more than thirteen (13) inches high and twenty-two (22) inches wide, obtained by lowering the window. One side window on each side of the bus may be less than twenty-two (22) inches wide.

B. Optional tinted and/or frost-free glazing may be installed in all doors, windows, and windshields consistent with federal, state, and local regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:648 (April 1999).

§579. Windshield

A. The windshield shall be constructed and installed in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:648 (April 1999).

§581. Windshield Washers

A. A windshield washer system shall be installed in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:648 (April 1999).

§583. Windshield Wipers

A. All windshield wiper systems shall comply with current FMVSS.

B. A windshield wiping system, two speed or variable speed with an intermittent feature, shall be provided.

C. The wipers shall be operated by one or more air or electric motors of sufficient power to operate the wipers. If one motor is used, the wipers shall work in tandem.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:649 (April 1999).

§585. Wiring

A. All wiring shall comply with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:649 (April 1999).

Chapter 7. Bus Chassis Standards

§701. Chassis Specifications

A. All chassis specifications shall apply to Type A, B, C, and D school buses unless exceptions are noted in exceptions to minimum standards.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:649 (April 1999).

§703. Air Cleaner

A. The air cleaner installation shall be in compliance with the current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:649 (April 1999).

§705. Axles

A. The front and rear axle shall have a capacity which is in compliance with the current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:649 (April 1999).

§707. Battery

A. The storage battery, as established by the manufacturer's rating, shall be of sufficient capacity to care for starting, lighting, signal devices, heating, other electrical devices and have a minimum of 475 cold cranking amperes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:649 (April 1999).

§709. Brakes

A. All school buses shall be equipped with brakes in compliance with the current FMVSS, *Hydraulic Brake System* or *Air Brake System*, as appropriate. All repairs and/or adjustments shall meet current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:649 (April 1999).

§711. Clutch

A. Clutch torque capacity shall be equal to or greater than the engine torque output, and shall have a starter interlock device installed to prevent actuation of the starter if the clutch is not depressed. All repairs and/or adjustments shall be in compliance with the current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:649 (April 1999).

§713. Color

A. Chassis, including wheels and front bumper, shall be black. Body cowl, hood, and fenders shall be national school bus yellow. The flat surface of the hood may be non-reflective black or national school bus yellow.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:649 (April 1999).

§715. Drive Shaft

A. The drive shaft shall be protected by a metal guard or guards to prevent it from whipping through the floor or dropping to the ground.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:649 (April 1999).

§717. Exhaust System

A. The exhaust system shall be properly insulated from the fuel tank and fuel tank connections by a securely attached metal shield at any point where it is twelve (12) inches or less from the fuel tank.

1. Any repairs or modifications to the exhaust system shall be in compliance with this bulletin and current FMVSS.

B. The exhaust pipe, muffler, and tailpipe shall be outside the bus body and secured to the chassis.

C. The tailpipe shall be constructed of seamless or electrically welded tubing of at least 16-gauge steel or equivalent.

D. The tailpipe shall be located in such a manner as to deflect exhaust past the extreme rear corner of the bus.

1. The tailpipe shall *not* be located within twenty-two (22) inches of the center of the rear bumper and shall extend past the rear bumper at a length not to exceed two (2) inches.

2. The muffler shall be constructed of corrosion-resistant material.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:649 (April 1999).

§719. Fenders

A. Fenders shall be constructed in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:649 (April 1999).

§721. Frame

A. The frame shall be constructed in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§723. Fuel Tank

A. The fuel tank and fuel system shall be in compliance with current FMVSS and hold a minimum of thirty (30) gallons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§725. Generator or Alternator

A. All Type A and Type B buses, up to 15,000 pounds gross vehicle weight rating, shall have a minimum 60-amp alternator.

B. All buses equipped with an electrically powered lift shall be equipped with a minimum 100-amp alternator.

C. All wiring and mounting shall be in compliance with current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§727. Governor

A. An engine speed governor is permissible. When it is desired to limit road speed, a road speed governor should be installed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§729. Horn

A. Each bus shall be equipped with two (2) horns of standard make with each horn capable of producing a complex sound in bands of audio frequencies between 250 and 2,000 cycles per second.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§731. Instruments and Instrument Panel

A. The chassis shall be equipped with the following instruments and gauges (lights in lieu of gauges are not acceptable):

1. speedometer;
2. odometer;
3. voltmeter with graduated scale;
4. oil pressure gauge;
5. water temperature gauge;
6. fuel gauge;
7. high beam indicator;
8. air pressure or vacuum gauge in compliance with current FMVSS.

B. All instruments shall be easily accessible for maintenance and repair, and mounted in an instrument panel so as to be clearly visible to the driver in a normal seated position.

C. The instrument panel shall have lamps of sufficient candlepower to illuminate all instruments and gauges.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§733. Oil Filter

A. An oil filter with a replaceable element shall be provided and connected by flexible oil lines if not built in or an engine mount design. The oil filter shall have a minimum of at least one (1) quart capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§735. Openings

A. All openings in the floorboard or firewall between the chassis and the passenger compartment shall be sealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§737. Passenger Load

A. It shall be unlawful for anyone responsible for the transportation of school children on school buses, including drivers or operators of buses, transportation supervisors, school superintendents, and members of parish and city school boards to permit a number of children exceeding the number of seats available on a bus to be transported at one time on such bus. [Louisiana Statute R.S. 32:293 (C)]

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§739. Shock Absorbers

A. The bus shall be equipped with double action shock absorbers compatible with the manufacturer's rated axle capacity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§741. Springs

A. The capacity of springs or suspension assemblies shall be commensurate with the chassis manufacturer's gross vehicle weight rating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§743. Steering Gear

A. The steering gear and assembly shall be in compliance with current FMVSS. Power steering is required.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§745. Tires and Rims

A. Recapped tires, if used, shall be used only on the rear wheels.

B. A spare tire, if carried, shall be properly mounted outside the passenger compartment.

C. Tires and rims of proper size, and tires with load rating commensurate with the chassis manufacturer's gross vehicle weight rating, shall be provided.

1. All tires and rims on a given vehicle shall be of the same size and rating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:650 (April 1999).

§747. Transmission

A. Automatic transmissions shall have no fewer than three forward speeds and one reverse speed. The shift selector shall provide an indent between each gear position when the gear selector and shift selector are not steering column mounted.

B. In manual transmissions, second gear and higher shall be synchronized.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:651 (April 1999).

§749. Undercoating

A. The undersides of the steel or metallic-constructed front fenders shall be undercoated with a rust proofing compound that meets or exceeds the requirement of paragraph 3.4 of Federal Specification TT-C-520B.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:651 (April 1999).

Chapter 9. Exceptions to Minimum Standards

§901. Type "A" Buses

A. The vehicle must meet all Federal Motor Safety Standards and Specifications.

B. All minimum standards applying to Type C and Type D buses shall apply to Type A buses with the following exceptions.

1. The vehicle shall:
 - a. have a minimum headroom of sixty-three (63) inches;
 - b. be equipped with one flashing stop arm;
 - c. have a minimum gross vehicle weight of 8,200 pounds;
 - d. be equipped with a 100 ampere alternator or an 80 ampere alternator and two batteries, if it is equipped with a lift;
 - e. have a minimum aisle width of twenty-six (26) inches from front to back, if the vehicle is equipped with a lift;
 - f. have the rear bumper at manufacturer's standards equipment on van conversions or a minimum of eight (8) inches when body is constructed on a van type truck;
 - g. have a heater at manufacturer's standards;
 - h. have a grab handle not less than ten (10) inches in length and attached to the barrier.

C. Fender level marker lights are not required.

D. A barrier conforming to federal standards shall be installed on the right side immediately behind the entrance door.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:651 (April 1999).

§903. Type "B" Buses

A. The vehicle must meet all current FMVSS and Specifications.

B. All minimum standards applying to Type C and Type D buses shall apply to all Type B buses with the following exceptions.

1. The vehicle shall:
 - a. be equipped with a 100 ampere alternator or an 80 ampere alternator, or one (1) group 8D battery if equipped with a lift;
 - b. have a minimum aisle width of thirty (30) inches from front to back if the vehicle is equipped with a lift.
- C. The gross vehicle weight of the vehicle shall be more than 10,000 pounds.

D. A door may be located to the left of the driver on a GP chassis.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:651 (April 1999).

Chapter 11. Standards For Specially Equipped School Buses; Vehicles Designed to Transport Students with Disabilities

§1101. General Requirements

A. Vehicles designed to transport students with disabilities shall comply generally with all minimum standards for school buses.

B. Specifications for Additional Equipment or Modifications Necessary for Special Needs Transportation

1. Wheelchair lift doors shall be located on the right side of the bus and far enough to the rear to prevent the door, when opened, from obstructing the service door.

2. The wheelchair lift door shall open outwards, and a positive fastening device shall be installed to hold the door in an open position.

3. The wheelchair lift door shall be constructed of materials as the other school bus doors and equivalent in strength.

4. The door panel(s) shall extend below the full length of the skirt when an elevator type lift is used.

5. A two panel door is optional. If used, the panels shall be of approximately equal width, equipped with hinges and hinged to the side of the bus. Both panels shall open outward.

6. A two panel door shall be equipped with at least a one-point fastening device on the rear panel to the floor or header and at least two-point devices to the floor and header on the forward door panel.

7. The door shall be equipped with a device that will actuate an audible or visible signal located in the driver's compartment when the doors are not secured.

8. Each door shall contain a fixed or moveable window aligned with the lower line of the other windows of the bus, and, as nearly as practicable, the same size as the other bus windows.

9. The forward panel shall be equipped with an overlapping flange to close the space where the panels meet.

10. A weather seal shall be provided to close all door edges.

11. Door posts and headers shall be reinforced sufficiently to provide support and strength to the areas of the side of the bus not used for service doors.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:651 (April 1999).

§1103. Power Lift

A. The power lift shall have a minimum capacity of 750 pounds.

B. The power lift platform shall be a minimum of twenty-eight (28) inches wide and forty (40) inches long, including guard panels and rails.

C. The platform shall be covered with non-skid material.

D. A self-adjusting or equivalent ramp of sufficient width to minimize the incline to the lift platform shall be attached to the lift platform.

E. Controls shall be provided that enable the operator to activate the lift mechanism from either inside or outside of the bus.

F. A device shall be installed on the lift to prevent its operation until the door or doors are opened.

G. The power lift shall extend only from the side of the vehicle.

H. If a wheelchair lift is installed just rear of the service door, a stanchion and guard panel shall be installed between the lift and the service door.

I. A circuit breaker shall be installed between the power source and the lift motor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:652 (April 1999).

§1105. Ramps

A. Ramps are not permissible for use on Type "C" and "D" buses, except for emergency purposes.

B. Ramps shall be sufficient to hold 750 pounds of sustained weight.

C. Each ramp shall be equipped with protective flange on each longitudinal side to keep the wheelchair on the ramp.

D. The ramp shall be covered with nonskid material (i.e. webbed steel or rubberized material).

E. The ramp shall be equipped with a handle or handles and of such a weight as to permit one person to put the ramp in place and return it to the storage place.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:652 (April 1999).

§1107. Aisles

A. All aisles leading to the emergency door(s) from the wheelchair area shall be of sufficient width (minimum thirty (30) inches) to permit passage of a maximum sized wheelchair.

B. Thirty-nine (39) inch seats are permitted forward of the wheelchair area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:652 (April 1999).

§1109. Other Equipment

A. Securing devices necessary to hold portable student support equipment such as oxygen bottles, ventilators, crutches, etc. shall be installed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:652 (April 1999).

§1111. Wheelchair Fastening Devices

A. Position fastening devices shall be provided and meet current FMVSS.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:652 (April 1999).

Chapter 13. Optional Equipment

§1301. Specifications

A. A system to monitor the exterior lights on the front and rear of the bus from the driver's seated position is permissible. Such a system shall indicate to the driver whether a light is operating.

B. A power service door is permissible if it is equipped with a manual override that allows the driver to manually operate the door if the power system fails.

C. A public address system with speakers inside and outside the bus is permissible if it is equipped with a selector switch that permits the driver to select "inside" or "outside" speakers and is mounted in the driver's compartment.

D. A lock with two (2) keys is permissible to be installed on the fuel supply service door.

E. An AM or FM radio, cassette player, or compact disc player are permissible.

F. Fog lamps are permissible and shall conform to current FMVSS.

G. Two way radio systems and/or cellular phones are permissible.

H. Buses may be equipped with four (4) seven (7) inch arrow faced turn signals.

I. Buses may be equipped with a fuel gauge inspection plate located immediately above the sending unit.

J. A seat designed for the bus attendant is permissible. The attendant's seat must be installed facing either the front or rear of the bus.

K. Body fluid clean-up kits are permissible.

L. Additional emergency exits are allowed provided they meet current FMVSS.

M. A bus may be equipped with tinted windows provided the window is shaded within Louisiana Department of Public Safety guidelines.

N. A heater booster pump may be installed on diesel powered buses.

O. An engine pre-heating device may be installed on diesel powered buses.

P. Combination side marker/turn signals may be installed.

Q. If the stop arm is electrically controlled, it is permissible to equip it with a slip clutch for motor and transmission protection.

R. Alternative fuel systems are allowed provided they meet current FMVSS.

S. A clear lens strobe light may be installed on the rear one-third of the bus.

T. A video system to monitor driver and student behavior may be installed.

U. Exterior motion devices may be installed.

V. Buses may be equipped with low profile tires.

W. Reflective bus markings are allowed provided they meet all current FMVSS and state regulations.

X. Electronic security systems are permissible.

Y. Hubometers are permissible.

Z. Bus roofs may be painted white. The white paint may not extend beyond the drip rail. Front and rear caps must remain yellow.

AA. External baggage compartments are allowed.

BB. Diesel engine noise reduction packages are allowed.

CC. Seat spacing may be altered to accommodate special devices. All seats must be forward facing.

DD. An electronically controlled "cruise control" is permissible.

EE. LED type stop arms are permissible.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:652 (April 1999).

Chapter 15. Motor and Chassis Specifications

§1501. Motor

A. The chassis shall be equipped with a diesel engine that meets the specifications shown in the following table. It must also be a truck type engine. Diesel powered vehicles with hydraulically assisted hydraulic brakes shall have a chassis air or vacuum for stop arm operation. The vehicle shall also be equipped with power steering, dual horns, batteries with 1875 CCA, and front and rear shock absorbers.

Capacity	48 or less	53/54	59/60	65/66	71/72	77/78 or greater
Tire Size	09R x 22.5	10R x 22.5	10R x 22.5	10R x 22.5	11R x 22.5	11R x 22.5 (14ply)
Rim Size	22.5	22.5	22.5	22.5	22.5	22.5
Gross Vehicle Weight Rating	22,500	26,500	29,000	29,000	31,000	33,000
Gross Horsepower	180	190	190	190	190	210
Forward Transmission Speeds	4	4	4	4	4	5
Front Axle	7,500	9,000	10,000	10,000	12,000	12,000
Rear Axle	15,000	17,500	19,000	19,000	19,000	21,000
Alternator	130	130	130	130	130	130
Front Springs	7,500	9,000	10,000	10,000	12,000	12,000
Rear Springs	15,000	17,500	19,000	19,000	19,000	21,000

Note: Where buses require flat type floors 19.5" tires are allowed if Gross Vehicle Weight Rating requirements are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:653 (April 1999).

Chapter 17. Appendix A

§1701. T-10 Form

MANDATORY

FORM T-10
REV: 7/94

STATE DEPARTMENT OF EDUCATION DATE: _____
GUARANTEED FROZEN MILEAGE: _____

I propose to sell _____ the following described
NEW/USED school bus.

(Contract Owner or School Board)

(circle one)

CHASSIS _____

YEAR MODEL _____

MAKE _____

SERIAL NUMBER _____

MILEAGE _____

CONDITION _____

This vehicle meets all Federal Motor Vehicle Safety Standards and Bulletin 1213 specifications applicable at the date of manufacture.

I verify that the above information is true and correct to the best of my knowledge.

OFFICIAL PURCHASE AGREEMENT DATE: _____

LICENSE NUMBER: _____

SIGNATURE (Seller)

COMPANY

ADDRESS

Purchased by: _____ Approved by: _____

SIGNATURE

LOCAL SCHOOL SYSTEM

ADDRESS

SIGNATURE OF LOCAL SCHOOL SYSTEM
SUPERINTENDENT/TRANSPORTATION
SUPERVISOR

COPIES SENT TO:

WHITE/STATE DEPARTMENT OF EDUCATION

CANARY/TRANSPORTATION DEPARTMENT

PINK/PURCHASER

GOLD/VENDOR

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, and R.S. 17:164-166.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:653 (April 1999).

Weegie Peabody
Executive Director

9904#071

RULE

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

Student Financial Assistance Commission Bylaws
(LAC 28:V.113)

The Louisiana Student Financial Assistance Commission (LASFAC), the statutory body created by R.S. 17:3021 et seq., in compliance with R.S. 49:952 of the Administrative Procedure Act, hereby announces revision of its governing Bylaws, as follows:

**Title 28
EDUCATION**

**Part V. Student Financial Assistance—Higher
Education Loan Program**

**Chapter 1. Student Financial Assistance Commission
Bylaws**

**§113. Rights, Duties and Responsibilities of the
Executive Staff of the Commission**

A. - F. ...

G. Recording Secretary. The executive director shall appoint a recording secretary whose duties shall include giving or causing to be given notice of all meetings of the commission and its committees as required by the Administrative Procedures Act or these Bylaws, to record and prepare the minutes of all commission meetings and meetings of its committees and to maintain and provide for the safekeeping of all minutes and other official documents of the commission. The recording secretary shall have the authority to provide copies of the official records of the commission as required by the public records laws of the State of Louisiana or as otherwise directed by the commission or the executive director and to certify the authenticity of such records and the signatures of members of the commission, the executive director or others acting in their official capacity on behalf of the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:321.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:810 (September 1996), amended LR 24:1265 (July 1998), LR 25:654 (April 1999).

Jack L. Guinn
Executive Director

9904#002

RULE

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

Tuition Opportunity Program for Students (TOPS)—
Higher Education Scholarship and Grant Programs
(LAC 28:IV.301, 503, 703, 705)

The Louisiana Student Financial Assistance Commission (LASFAC) is amending rules of the Tuition Opportunity Program for Students, LAC 28:IV.

**Title 28
EDUCATION**

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

Chapter 3. Definitions

§301. Definitions

* * *

Cumulative High School Grade Point Average—the final cumulative high school grade point average calculated on a 4.00 scale for all courses attempted. Effective beginning with graduates in academic year 2000-2001, the Cumulative High School Grade Point Average shall be calculated by using only the course grades achieved for those courses included in the core curriculum and recorded on the official transcript reported to the Louisiana Department of Education. 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.

* * *

Louisiana Resident—

a. any independent student or any dependent student with at least one parent or legal guardian who has resided in the state for a minimum of 24 consecutive months immediately preceding a certain date or the date of a specified event that is further defined by the programs found in Part IV

of these rules, or some other period of residency which is required to qualify the person for a specific program administered by the LASFAC. To qualify for a program under Part IV of these rules, in addition to the certification of residency found on the application form, the administering agency may require an independent student applicant or the parent(s) or legal guardian of a dependent student applicant to show proof of residency. Residency may be established by completion of a standard affidavit developed by the administering agency. Such affidavits must be completed in their entirety by the independent student applicant or by at least one parent or legal guardian of the dependent student applicant and be sworn to and notarized by a licensed notary public. Further, the affiant shall be required to submit records in support of the affidavit to include the following records and such other records as may be required by the administering agency:

- i. if registered to vote, a Louisiana voters registration card; and
 - ii. if licensed to drive a motor vehicle, a Louisiana driver's license; and
 - iii. if owning a motor vehicle located in Louisiana, a Louisiana registration for that vehicle; and
 - iv. if earning a reportable income, a Louisiana tax return.
- b. 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.

* * *

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), LR 25:654 (April 1999).

Chapter 5. Application; Application Deadlines and Proof of Compliance

§503. Application Deadlines

* * *

B. Final Deadline. The final deadline for receipt of a student's initial application for state aid is July 1st of the high school academic year (which includes the Fall, Spring and Summer sessions) in which a student graduates. To renew an award in subsequent years, annual applications must be received by the July 1st deadline. Any student submitting an application for state aid after the Final Deadline will be ineligible for the requested aid. An application for renewal of an award in a subsequent year received after the July 1 deadline will not be processed, and the student will not be eligible for an award in that year. For example, for a student graduating in the 1998-1999 high school academic year, the student must submit an application (the Free Application for Federal Student Aid) to be received by the federal processor by July 1, 1999 and must submit an application to be received by the July 1st deadline for every year thereafter in which the student desires to renew the 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 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 25:655 (April 1999).

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

§703. Establishing Eligibility

A. - 4.f. ...

g. all students must apply for an award by July 1st of the high school academic year (which includes the Fall, Spring and Summer sessions) in which they graduate to establish their initial qualification for an award. For a student entitled to defer acceptance of an award under section 703.A.4.b. or d., that student must apply by July 1st of the high school academic year in which the student graduates and must also apply by July 1st prior to the academic year in which the student intends to first accept the award, and every year of eligibility thereafter.

5.a. ...

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 Free Enterprise (one unit combined) or Civics (one unit, nonpublic)
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).

1/2

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. - F. ...

G.1. A student who enters a college or university under an early admissions program prior to high school graduation will be eligible for an appropriate award under the following conditions:

a. - d. ...

2. A student who graduates from high school in less than four years or who enters a college or university early admissions program prior to graduation from high school shall be considered a First-Time Freshman, as defined in §703, not earlier than the first semester following the academic year in which the student would have normally graduated had he or she not graduated early or entered an early admissions program. A student who graduates high school in less than four years or enters an early admissions program will remain eligible for a TOPS award until the semester or term, excluding summer semesters or sessions, immediately following the first anniversary of the date that the student normally would have graduated.

* * *

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), LR 25:655 (April 1999).

§705. Maintaining Eligibility

* * *

C. In the event the administering agency determines that an ineligible student has received an award as the result of an administrative error or erroneous information provided by the student or the student's parent(s) or legal guardian or incorrect certification from the student's high school, the student's eligibility for the award shall be terminated and no further awards shall be made to the ineligible student. If an ineligible student has received an award due to an administrative error or incorrect certification, the administering agency will not pursue recoupment from the student of funds that were awarded. If an erroneous award has been made and the administering agency determines that the award was made based upon incorrect information submitted by the student or the student's parent(s) or legal guardian, the administering agency may seek reimbursement from the student, the student's parent(s) or legal guardian, and if it is further determined that the award was made due to an intentional misrepresentation by the student, the student's parent(s) or legal guardian, then the administering agency shall refer the case to the Attorney General for investigation and prosecution. If a student or the student's parent(s) or legal guardian is suspected of having intentionally misrepresented the facts which were provided to the administering agency and used by it to determine the eligibility of the student for the program and the administering agency has referred the case to the Attorney General for

investigation, then the student shall remain ineligible for future award consideration pending an outcome of said investigation which is favorable to the student.

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), LR 25:656 (April 1999).

Jack L. Guinn
Executive Director

9904#003

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

**Control of Emissions of Smoke
(LAC 33:III.1105)(AQ183)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.1105 (AQ183).

The limitation on the shade or appearance of emissions will be changed from Number 1 on the Ringlemann Chart to 20 percent opacity. The regulation mentions Chapter 15, Table 4, which references 40 CFR Part 60, Method 9 and Method 22 for measurement of visible emissions. This rule applies to flares and other similar devices used for burning in connection with pressure valve releases for control over process upsets. The basis and rationale for this rule are to clarify the existing language.

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.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 11. Control of Emissions of Smoke

§1105. Smoke from Flaring Shall Not Exceed 20 Percent Opacity

The emission of smoke from a flare or other similar device used for burning in connection with pressure valve releases for control over process upsets shall be controlled so that the shade or appearance of the emission does not exceed 20 percent opacity (LAC 33:III.1503.Table 4) for a combined total of six hours in any 10 consecutive days. If it appears the emergency cannot be controlled in six hours, the administrative authority shall be notified by the emitter as soon as possible after the start of the upset period. Such notification does not imply the administrative authority will automatically grant an exemption to the source(s) of excessive emissions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 25:656 (April 1999).

Gus Von Bodungen, P.E.
Assistant Secretary

9904#046

RULE

**Department of Environmental Quality
Office of Air Quality and Radiation Protection
Air Quality Division**

**Storage of Volatile Organic Compounds
(LAC 33:III.2103)(AQ185)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air Quality Division regulations, LAC 33:III.2103 (Log Number AQ185).

Additional methods will be allowed for the measurement of Reid vapor pressure. The allowed methods are ASTM D323, ASTM D4953, ASTM D5190, and ASTM D5191. The use of these methods was requested by a facility subject to the rule. The basis and rationale for this rule are to allow alternate test methods that are technically sound and that are allowed by other states.

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.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2103. Storage of Volatile Organic Compounds

* * *

[See Prior Text in A-H.3.a]

b. by ASTM Test Methods D323, D4953, or D5190 for the measurement of Reid vapor pressure, and adjusted for actual storage temperature using the nomographs contained in API Bulletin 2517;

* * *

[See Prior Text in H.3.c]

d. determined by ASTM Test Method D2879 or D5191; or

* * *

[See Prior Text in H.3.e-1.6]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR

15:1065 (December 1989), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:27 (January 1990), LR 17:360 (April 1991), LR 18:1121 (October 1992), LR 20:1376 (December 1994), LR 21:1223 (November 1995), repromulgated LR 21:1333 (December 1995), amended LR 22:453 (June 1996), LR 22:1212 (December 1996), LR 24:20 (January 1998), LR 24:2242 (December 1998), LR 25:657 (April 1999).

Gus Von Bodungen, P.E.
Assistant Secretary

9904#038

RULE

**Department of Environmental Quality
Office of the Secretary**

**Civil Penalty Assessment
(LAC 33:I.Chapter 7)(OS026)**

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 Office of the Secretary regulations, LAC 33:I.Chapter 7(OS026).

This rule will establish a consistent department-wide approach for the assessment of civil penalties. Included in this assessment is the consideration of multiple violations, gravity of any violation committed, and that economic incentives for noncompliance are eliminated. This regulation is designed to promote the goals of deterrence, as well as, to provide fair and equitable treatment of the regulated community. The Louisiana Environmental Quality Act, R.S. 30:2050.3, requires the secretary to establish criteria for the assessment of consistent department-wide penalties based upon the nine factors found in R.S. 30:2025(E). The basis and rationale for this rule are to comply with R.S. 30:2050.3.

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.

Title 33

ENVIRONMENTAL QUALITY

Part 1. Office of the Secretary

**Subpart 1. Departmental Administrative Procedures
Chapter 7. Penalties**

§701. Scope

A. The intent of this Chapter is to assure that, after the department has determined a penalty is to be assessed for one or more violations, each penalty is assessed in a consistent, fair, and equitable manner; that penalties are appropriate for the gravity of the violation committed; that economic incentives for noncompliance are eliminated; that penalties are sufficient to deter persons from committing future violations; and that compliance is expeditiously achieved and maintained.

B. After considering the nine factors in R.S. 30:2025(E)(3)(a), the department realizes there may be circumstances where violations have occurred that do not warrant a penalty action.

C. This Chapter is to be utilized by the department only after it has determined that a penalty is to be assessed for a specific violation unless otherwise specified by rule or regulation. Nothing in this Chapter applies to the determination of whether to assess a penalty, or to the compromise or settlement of a penalty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:657 (April 1999).

§703. Definitions

For purposes of this Chapter, the terms defined in this Chapter shall have the following meanings, unless the context of use clearly indicates otherwise:

Nine Factors—the factors listed in R.S. 30:2025(E)(3)(a) and considered by the department in determining whether or not a civil penalty is to be assessed and in determining the amount agreed upon in compromise. The nine factors are as follows:

- a. the history of previous violations or repeated noncompliance;
- b. the nature and gravity of the violation;
- c. the gross revenues generated by the respondent;
- d. the degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
- e. the monetary benefits realized through noncompliance.
- f. the degree of risk to human health or property caused by the violation;
- g. whether the noncompliance or violation and the surrounding circumstances were immediately reported to the department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged;
- h. whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by his noncompliance or violation; and
- i. the costs of bringing and prosecuting an enforcement action, such as staff time, equipment use, hearing records, and expert assistance.

Penalty Event—any violation [as defined in R.S. 30:2004(21)] for which the administrative authority, after consideration of the factors listed in R.S. 30:2025(E)(3)(a), determines a penalty is warranted. For violations lasting more than one 24-hour day, each such day of violation may be treated as a separate penalty event.

Response Costs—the costs to the state of any response action made necessary by a penalty event that are not voluntarily paid by the violator. These costs shall include, but are not limited to, the costs of surveillance staff activities including cleanup costs and the costs of bringing and prosecuting an enforcement action, such as staff time, equipment use, hearing records, and expert assistance.

Violation Specific Factor—the two of the nine factors considered when plotting a violation on the penalty matrix. Each factor is weighed consistently without regard to the violator, and no special circumstances or violator-specific factors are considered when plotting the violation on the penalty matrix. These factors include:

- a. the nature and gravity of the violation; and
- b. the degree of risk to human health or property caused by the violation.

Violator-Specific Factor—the five of the nine factors considered when adjusting the difference between the minimum and maximum penalty range within a particular cell on the penalty matrix. The degree of adjustment in a particular penalty range on the penalty matrix will vary depending upon the specific and unique circumstances of these five factors. These factors include:

- a. the history of previous violations or repeated noncompliance;
- b. the gross revenues generated by the respondent;
- c. the degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
- d. whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by his noncompliance or violation; and
- e. whether the noncompliance or violation and the surrounding circumstances were immediately reported to the department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:658 (April 1999).

§705. Penalty Determination Methodology

A. A penalty range for each penalty event is calculated based on the two violation-specific factors. The two violation-specific factors are plotted on the penalty matrix to determine a penalty range for a particular penalty event (see Table 1). The various penalty ranges for a penalty event are found inside each cell of the penalty matrix.

Table 1. Penalty Matrix				
	Nature and Gravity of the Violation			
		Major	Moderate	Minor
Degree of Risk/Impact to Human Health or Property	Major	\$25,000 to \$20,000	\$20,000 to \$15,000	\$15,000 to \$11,000
	Moderate	\$11,000 to \$8,000	\$8,000 to \$5,000	\$5,000 to \$3,000
	Minor	\$3,000 to \$1,500	\$1,500 to \$500	\$500 to \$100

1. *Penalty Matrix*—Degree of Risk to Human Health or Property. The first stage of the penalty calculation involves the categorization of each penalty event as major, moderate, or minor with regard to its degree of risk to human health or property. The following criteria are used to categorize each penalty event with regard to its degree of risk to human health or property:

- a. *Major*. Refers to a violation in which actual measurable harm or substantial risk of harm to the environment or public health occurs. The noncompliance

results in, or would reasonably be expected to result in, the temporary or permanent loss of a use of the environmental resource. A violation of major impact and hazard may be one characterized by high volume and/or frequent occurrence and/or high pollutant concentration. Such violations may have a detrimental impact on sensitive environments or include the discharge of toxic pollutants;

b. Moderate. Refers to a violation that has the potential for measurable detrimental impact on the environment or public health. A violation of moderate impact and hazard may be one characterized by occasional occurrence and/or pollutant concentration that may be expected to have a detrimental effect under certain conditions; and

c. Minor. Refers to a violation that does not directly present actual harm or substantial risk of harm to the environment or public health. Violations that are isolated single incidences and that cause no measurable detrimental effect to the environment or public health may be considered minor. Violations that are administrative in nature may be, but are not necessarily, considered minor.

2. Penalty Matrix—Nature and Gravity of the Violation. The second stage of the penalty calculation involves the categorization of each penalty event as major, moderate, or minor with regard to its nature and gravity. The following criteria are used to categorize each penalty event with regard to its nature and gravity:

a. Major. Refers to violations of applicable statutes, regulations, orders, permit limits, or permit requirements that result in negating the intent of the requirement. The respondent deviates significantly from the requirements of the statutes, regulations, or permit to such an extent that little or no implementation of requirements occurs;

b. Moderate. Refers to violations of applicable statutes, regulations, orders, permit limits, or permit requirements that result in substantially negating the intent of the requirement. The respondent deviates from the requirements of the statutes, regulations, or permit, but some implementation of the requirements occurred; and

c. Minor. Refers to violations of applicable statutes, regulations, orders, permit limits, or permit requirements that result in some deviation from the intent of the requirement. The respondent deviates somewhat from the requirements of the statutes, regulations, or permit; however, substantial implementation of the requirements occurred.

B. Once a penalty event has been categorized as major, moderate, or minor for both its degree of risk to human health or property and its nature and gravity, a penalty range is obtained by plotting these two categorizations with the corresponding cell of the penalty matrix.

C. Violator-Specific Factors (Adjustment Factors) Per Event. The next stage of the penalty calculation involves the adjustment of the penalty using the following violator-specific factors:

1. the history of previous violations or repeated noncompliance;
2. the gross revenues generated by the respondent;
3. the degree of culpability, recalcitrance, defiance, or indifference to regulations or orders;
4. whether the person charged has failed to mitigate or to make a reasonable attempt to mitigate the damages caused by the noncompliance or violation; and

5. whether the noncompliance or violation and the surrounding circumstances were immediately reported to the department, and whether the violation or noncompliance was concealed or there was an attempt to conceal by the person charged.

D. The five violator-specific factors are used to adjust the penalty amount for each penalty event. Each violator-specific factor is assigned a percentage adjustment on a case by case basis. The upward or downward percentage adjustment for each violator-specific factor shall be no more than 100 percent of the difference between the minimum and maximum penalty amount for the chosen matrix cell. The five percentages are added together to calculate a total percentage adjustment for the penalty range for the penalty event. The total upward or downward percentage adjustment is also limited to 100 percent. The total percentage adjustment is multiplied by the difference between the minimum and maximum penalty amount for the chosen matrix cell. The product is then added to, or subtracted from, the minimum penalty amount in the chosen matrix cell.

E. The information obtained from the violation-specific and violator-specific factors can be entered into one of the following formula(s) to obtain a penalty amount (P_n) for each penalty event:

$$P_n = A_n + (B_n \times [C_n - A_n])$$
$$P_n = 2(A_n + [B_n \times (C_n - A_n)]) *$$

where:

P_n = penalty amount for a given penalty event.

A_n = the minimum value of the penalty range for the cell located on the penalty matrix for a given penalty event.

B_n = the sum of percentage adjustments calculated for a given penalty event, where 100 percent \$ B \$ -100 percent.

C_n = the maximum value of the penalty range for the cell located on the penalty matrix for a given penalty event.

* *Note:* The statutory maximum is double in circumstances where the penalty event constitutes a violation of a previous enforcement action as stated in R.S. 30:2025 (E)(2).

F. The values for each penalty amount (P_n) are added to determine a penalty subtotal (P_s):

$$P_s = P_1 + P_2 + P_3 \dots$$

G. The department shall consider the monetary benefits realized through noncompliance. Any monetary benefits calculated may be added to the penalty subtotal. However, the amount calculated may not cause the penalty subtotal to exceed the maximum penalty amount allowed by law.

H. Response costs (R_c) are then added to the penalty subtotal (P_s) to determine the total penalty amount (P_t):

$$P_t = P_s + R_c$$

I. In accordance with R.S. 30:2025 (E)(1)(a), the department reserves the right to assess an additional penalty of not more than \$1,000,000 for any penalty event that is done intentionally, willfully, or knowingly, or results in a discharge or disposal that causes irreparable or severe damage to the environment or if the substance discharged is one which endangers human life or health.

J. In circumstances where the respondent has provided, or has agreed to provide, a grant, donation, or other form of assistance with respect to a designated pollution source, as provided in R.S. 30:2031, the penalty amount may be reduced

by the monetary value of such grant, donation, or other form of assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2050.3.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:658 (April 1999).

Dale Givens
Secretary

9904#036

RULE

Department of Environmental Quality Office of the Secretary

Permit Qualifications and Requirements
(LAC 33:I.1701; III.501, 517, 5111; V.515; VII. 517,
520; IX.2331, 2387, 2407, 2765, 2769)(OS029)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Environmental Quality regulations, LAC 33:I.1701; III.501, 517, and 5111; V.515; VII.517 and 520; IX.2331, 2387, 2407, 2765, and 2769 (Log # OS029).

The rule requires that applicants for an environmental permit, or for transfer of ownership of a permit, meet certain requirements and also requires that an applicant provide the department with a list of states(s) where the applicant has similar or identical federal or state environmental permits. This rule is required by the Louisiana Environmental Quality Act, R.S. 30:2014.2. The basis and rationale for the rule are to comply with R.S. 30:2014.2.

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.

Title 33

ENVIRONMENTAL QUALITY

Part I. Office of the Secretary

Subpart 1. Departmental Administrative Procedures

Chapter 17. Permit Qualifications and Requirements

§1701. Requirements for Obtaining a Permit

A. In addition to meeting the requirements for permits outlined in the applicable sections of the Environmental Quality Regulations, an applicant shall:

1. have no history of environmental violation(s) that demonstrates to the department an unwillingness or inability to achieve and maintain compliance with the permit for which the application is being made, unless the department determines that the applicant's history of environmental violation(s) can be adequately addressed by permit conditions;

2. if required, register with the Secretary of State;

3. owe no outstanding fees or final penalties to the department; and

4. if under a compliance schedule, be making satisfactory progress in meeting the conditions of the compliance schedule.

B. Before issuing any permit or transfer of ownership of a permit, the administrative authority may conduct an evaluation of the applicant related to the management of any facilities or

activities subject to regulation under any applicable air, water, solid waste, hazardous waste, radiation control, or other environmental programs administered by the various states of the United States or by the federal government. If, pursuant to this evaluation, the administrative authority determines that the applicant has demonstrated an unwillingness or inability to achieve and maintain compliance with the permit for which application is being made, the administrative authority may:

1. include such conditions in the permit as reasonably deemed necessary for the protection of human health and the environment; or

2. deny any application for the issuance or transfer of the permit.

C. The applicant shall provide to the department a list of the state(s) where he or she has federal or state environmental permits identical to, or of a similar nature to, the permit for which application is being made. This information shall be provided for all individuals, partnerships, corporations, or other entities who own a controlling interest (50 percent or more) in the company or who participate in the environmental management of the facility for an entity applying for a permit or an ownership interest.

D. In addition to providing the information required in Subsection C of this Section, the applicant shall submit a written statement, as part of the permit application, to certify that:

1. if required, the applicant has registered with the Secretary of State; and

2. no outstanding fees or final penalties are owed to the department.

E. The administrative authority may require the submission of additional information if the administrative authority deems such information necessary in order to make a determination under this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2014.2 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:660 (April 1999).

Part III. Air Quality

Chapter 5. Permit Procedures

§501. Scope and Applicability

* * *

[See Prior Text in A-C.9]

10. Before issuing any permit for a new or existing source or transfer of ownership of a permit, the administrative authority may conduct an evaluation of the applicant and may include such conditions in the permit as reasonably deemed necessary for the protection of human health and the environment or may deny any application for the issuance, renewal, or transfer of the permit. Requirements of LAC 33:I.1701 are not applicable to permit modifications, unless such modifications include or are limited to a change of ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2011 and 2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy,

Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999).

§517. Permit Applications and Submittal of Information

* * *

[See Prior Text in A-F]

G. Change of Ownership. Notification of any change in ownership must be given to the permitting authority within 90 days after the change. Such notification need not require a complete permit application submittal, but shall be provided in accordance with forms or guidance from the permitting authority and in accordance with requirements of LAC 33:I.1701. The administrative authority is authorized to amend the permit to reflect such changes in accordance with LAC 33:III.521. Failure to disclose such changes of ownership within 90 days after the event will be grounds for invalidation of the permit. Based on review of the compliance history of the new owner, the administrative authority has the right to deny the transfer of the permit in accordance with provisions of LAC 33:I.1701. Changes in ownership of a source holding grandfathered status will require that a permit application be submitted in accordance with LAC 33:III.501.B.6 and Subsection A.3 of this Section.

H. Additional requirements for permits and transfer of ownership of permits are provided in LAC 33:I.1701. Requirements of LAC 33:I.1701 are not applicable to permit modifications, unless such modifications include or are limited to a change of ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), amended LR 20:1375 (December 1994), amended by the Office of the Secretary, LR 22:344 (May 1996), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 23:405 (April 1997), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:661 (April 1999).

Chapter 51. Comprehensive Toxic Air Pollutant Emission Control Program

§5111. Permit Requirements, Application, and Review

* * *

[See Prior Text in A]

1. Before commencement of the construction of any new source, the owner or operator of such source shall obtain a Louisiana Air Permit in accordance with Subsections B and C of this Section and in accordance with LAC 33:I.1701.

* * *

[See Prior Text in A.2-5]

6. Requirements of LAC 33:1701 are not applicable to permit modifications, unless such modifications include or are limited to a change of ownership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2060 and R.S. 30:2001 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), amended LR 18:1363 (December 1992), LR 19:891 (July 1993),

repromulgated LR 19:1314 (October 1993), LR 23:59 (January 1997), amended by the Office of the Secretary, LR 25:661 (April 1999).

Part V. Hazardous Waste and Hazardous Materials

Subpart 1. Department of Environmental Quality—Hazardous Waste

Chapter 5. Permit Application Contents

Subchapter C. Permit Applications: Parts I and II

§515. Part I Information Requirements

* * *

[See Prior Text in A-A.22]

23. list other states in which hazardous waste operations are or have been conducted, as required by LAC 33:I.1701;

24. zoning of site, if applicable;

25. for hazardous debris: a description of the debris category(ies) and contaminant category(ies) to be treated, stored, or disposed of at the facility;

26. other information required in LAC 33:I.1701; and

27. comments.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2180 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Hazardous Waste Division, LR 10:200 (March 1984), amended LR 21:266 (March 1995), amended by the Office of the Secretary, LR 25:661 (April 1999).

Part VII. Solid Waste

Chapter 5. Solid Waste Management System

Subchapter A. Administration, Classification, and Inspection Procedures

§517. Permit Modifications

* * *

[See Prior Text in A-A.1.b]

i. a statement from the proposed permit holder assuming liability for existing violations and conditions;

ii. proof of financial responsibility by the proposed permit holder, as required by LAC 33:VII.727.A.1 and 2; and

iii. information required in LAC 33:I.1701.

* * *

[See Prior Text in A.2-4]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended by the Office of the Secretary, LR 25:661 (April 1999).

§520. Compliance Information

All applicants for solid waste permits shall comply with the requirements of LAC 33:I.1701.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular R.S. 30:2014.2.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, LR 25:661 (April 1999).

Part IX. Water Quality Regulations

Chapter 23. The Louisiana Pollutant Discharge

Elimination System (LPDES) Program

Subchapter B. Permit Application and Special LPDES Program Requirements

§2331. Application for a Permit

* * *

[See Prior Text in A-E]

F. Information Requirements. All applicants for LPDES permits shall provide the following information to the state administrative authority, using the application form provided by the state administrative authority (additional information required of applicants is set forth in Subsections G - K of this Section and LAC 33:I.1701):

* * *

[See Prior Text in F.1-8]

9. additional application requirements in LAC 33:IX.2765.A and LAC 33:I.1701.

* * *

[See Prior Text in G-1 EDITORIAL NOTE]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:723 (June 1997), amended by the Office of the Secretary, LR 25:661 (April 1999).

Subchapter D. Transfer, Modification, Revocation and Reissuance, and Termination of Permits
§2387. Termination of Permits

* * *

[See Prior Text in A-A.4]

5. additional causes of termination contained in LAC 33:IX.2769.

* * *

[See Prior Text in B]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:725 (June 1997), amended by the Office of the Secretary, LR 25:662 (April 1999).

§2407. Modification, Revocation and Reissuance, or Termination of Permits

A. Permits may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the state administrative authority's initiative. However, permits may only be modified, revoked and reissued, or terminated for the reasons specified in LAC 33:IX.2383, 2387, or 2769. All requests shall be in writing and shall contain facts or reasons supporting the request.

* * *

[See Prior Text in B.1-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:725 (June 1997), LR 23:1524 (November 1997), amended by the Office of the Secretary, LR 25:662 (April 1999).

Subchapter V. Additional Requirements Applicable to the LPDES Program

§2765. Additional LPDES Permit Application Requirements

* * *

[See Prior Text in A-A.2]

B. In addition to the requirements in LAC 33:I.1701 and LAC 33:IX.2331.G.1, H.1, and K.1, all applicants shall provide the following information to the administrative

authority using the application form provided by the office, unless the office determines that such information is not required for the applicant's facility or activity:

* * *

[See Prior Text in B.1-3]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended by the Office of the Secretary, LR 25:662 (April 1999).

§2769. Additional Requirements for Permit Renewal and Termination

A. The following are causes, in addition to those found in LAC 33:IX.2387, for terminating a permit during its term or for denying a permit renewal:

* * *

[See Prior Text in A.1-D]

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq., and in particular Section 2074(B)(3) and (B)(4).

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Water Resources, LR 21:945 (September 1995), amended LR 23:726 (June 1997), amended by the Office of the Secretary, LR 25:662 (April 1999).

J. Dale Givens
Assistant Secretary

9904#035

RULE

Office of the Governor
Commission on Law Enforcement and Administration of Criminal Justice

Peace Officers—Standards and Training
(LAC 22:III.Chapter 47)

In accordance with the provision of R.S. 40:2401 et seq., the Peace Officer Standards and Training Act, and R.S. 49:950 et seq., the Administrative Procedure Act, the Commission on Law Enforcement and Administration of Criminal Justice has amended its rules and regulations relative to the training of peace officers.

Title 22
CORRECTIONS, CRIMINAL JUSTICE AND LAW ENFORCEMENT

Part III. Commission on Law Enforcement and Administration of Criminal Justice

Subpart 4. Peace Officers

Chapter 47. Standards and Training

§4701. Definitions

A. The following terms, as used in these regulations, shall have the following meanings.

Law Enforcement Training Course—a basic or advanced course of study certified by the Council on Peace Officer Standards and Training (POST), for the purpose of educating and training persons in the skills and techniques of a peace officer in the discharge of his duties.

Peace Officer—any full-time employee of the state, a municipality, a sheriff or other public agency, whose

permanent duties actually include the making of arrests, the performing of searches and seizures, or the execution of criminal warrants, and is responsible for the prevention or detection of crime or for the enforcement of the penal, traffic, highway laws of this state, but not including any elected or appointed head of a law enforcement department. Peace officer also includes those sheriff's deputies whose duties include the care, custody and control of inmates.

Training Center—any POST accredited school, academy, institute, or any place of learning whatsoever, which offers or conducts a law enforcement or corrections training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:662 (April 1999).

§4703. Basic Certification

A. All full-time peace officers, as defined in R.S. 40:2402, shall complete a basic training course as prescribed and certified by the Council on Peace Officers Standards and Training (POST Council). Reserve or part-time officers or military police officers stationed in Louisiana may be eligible for certification if they successfully complete a basic training course prescribed for full-time peace officers and pass the POST statewide examination. There are three levels of POST certification.

1. Level 1 Certification for Basic Law Enforcement Peace Officers

a. The student will complete a training course with a minimum of 320 hours for full certification. Level 1 certification requires that the student meet the POST requirements for firearm certification.

2. Level 2 Certification for Basic Correctional Peace Officer

a. The student will complete a training course with a minimum of 218 hours and is limited to those peace officers whose duties are the care, custody, and control of inmates. The training course consists of the ACA core curriculum plus a sufficient number of hours to obtain POST certification. POST Firearm certification for Level 2 students is optional. 3 .

Level 3 Certification for Jailer Training Officers

a. The student will complete a training course with a minimum of 90 hours and is limited to those correctional officers whose duties are the care, custody, and control of inmates. This course consists of the ACA core correctional officer curriculum. POST Firearm certification for Level 3 students is not required.

B. Students shall adhere to all standards, rules and regulations established by the accredited training center. Certification will not be awarded to students who are physically unable to complete every aspect of the basic training course. A student may not be certified for successful completion if:

1. the student's excused absences exceed 10 percent of the total hours of instruction;

2. the student fails to achieve a passing grade of 70 percent or higher on each block of instruction;

3. the student fails to achieve a grade of 80 percent or higher on the requirements for firearm certification;

4. all aspects of the training course have not been successfully completed.

C. Students shall be required to pass the POST statewide written examination for peace officers as prescribed by state law. Seventy percent shall constitute a passing score. In the event a student fails the examination, one retest may be administered if the agency head so desires. The student must wait a minimum of fifteen working days before the retest can be administered with a maximum time limit of thirty working days. If said student fails the retest, the student shall be required to complete another basic training course and satisfy all POST requirements to obtain certification. Oral testing on the statewide examination is prohibited.

D. To maintain firearm certification, an officer shall be required to requalify yearly on the POST firearms qualification course, demonstrating at least 80 percent proficiency. Scores shall be computed and verified by a firearms instructor certified by the POST Council. If the period between qualifying exceeds 18 months for any reason, the officer will be required to complete a basic firearms course at an accredited training center, unless the officer had been in the military for more than three years and was exercising his veteran reemployment rights.

E. When a basic student injures themselves during a basic training course, the student must have the nature of the injury immediately documented. Should the injury later prevent the student from being tested on a basic training course requirement, then upon written request of the agency head, the student will have eight weeks from the time of the medical release to take and pass those course requirements, unless the time between the academy graduation and medical release exceeds a one year period. In that case, the student will be required to complete another basic training course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999).

§4705. Registration of Officers

A. Registration may be granted in lieu of certification to those officers who were hired prior to January 1, 1986, who did not attend POST-certified basic training.

B. Officers hired prior to January 1, 1986, may be eligible to receive POST registration by completing the following requirements.

1. A letter from the agency head shall be submitted to the POST Council indicating a desire to have the officer registered with the state;

2. Documentation shall accompany the letter regarding initial employment date and continuous law enforcement service on a form prescribed by POST.

3. POST registration shall not apply to reserve/auxiliary officers.

4. Registration is granted in lieu of certification to full-time officers, and shall not apply to reserve or part time officers. POST certification is only granted to those individuals who successfully meet all requirements of POST: a. completion of a basic training course, examination, etc.;

b. registration simply means that the full-time officer is *registered* with POST and he/she is not required to comply with the mandates for basic POST certification;

c. they are exempt from basic training course (i.e., *grandfathered in*), but must comply with all other POST mandates to maintain grandfathership;

d. grandfathership/registration shall become invalid if officer experiences a three-year break in full-time law enforcement service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:663 (April 1999).

§4707. Out-of-State Transfers

A. Out-of-state-transfers shall be eligible for certification by meeting the following criteria at an accredited training center:

1. present a currently valid out-of-state POST certificate. Training applicants transferring from out-of-state who are not certified will not be recognized by POST;

2. must be a full-time employed peace officer and not a part-time, reserve, or auxiliary officer;

3. successfully complete "Legal Aspects" Section of the *Louisiana Law Enforcement Basic Training Manual*, (40 minimum hours);

4. successfully complete "Firearms" Section of the *Louisiana Law Enforcement Training Manual*, (40 minimum hours);

5. pass the statewide examination for peace officers with a minimum score of 70 percent; if failed, the student must complete a full basic training course.

B. Out-of-state transfers with less than a 320 hour basic training course are required to complete an entire POST basic training course.

C. Out-of-state transfers who have attended "pre-service" training in another state shall be required to meet the same POST requirements as basic recruit officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999).

§4709. Interruption of Full-Time Service

A. Any peace officer hired prior to January 1, 1986 who interrupts his full-time law enforcement service for a period in excess of three years and is thereafter rehired, shall be required to meet the basic training requirements for new peace officers. However, if such officer has already completed a POST certified basic training course, he shall be required to complete the Legal Aspects and firearms portion of the course, qualify on the POST firearms qualification course, and pass the statewide examination, all at an accredited training center. Proof of basic training will be required. If the student fails the statewide examination, the student must complete a full basic training course.

B. Any officer hired after January, 1986 who interrupts his full-time law enforcement service for a period in excess of three years and is thereafter rehired, shall be required to meet the requirements outlined in §4709.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999).

§4715. Instructor Qualifications

A. Full-time academy instructors must meet the following minimum qualifications:

1. shall possess at least 60 semester hours college or may substitute practical experience in law enforcement and/or corrections as listed in A.2;

2. each two years full-time experience may be substituted for each 30 semester hours of college. Any combination of above will be acceptable;

3. shall have completed the instructor development course conducted by the Federal Bureau of Investigation. If the course is not available within Louisiana within one year, POST may waive this requirement until such time as a course becomes available;

4. shall have completed at least two years full-time practical experience in law enforcement and/or corrections field, which must be over and above any experience used as a substitute for college.

B. Specialized instructors for defensive tactics, firearms, and corrections shall meet the following qualifications:

1. shall be a full-time employee of a public criminal justice agency with at least two years full-time continuous, practical law enforcement experience, and pertain to firearms, defensive tactics, and corrections instructors;

2. shall have recommendation of an academy director or agency head;

3. shall successfully complete all aspects of specialized instructor school as presented by POST and the Federal Bureau of Investigation (FBI) (except for Defensive Tactics Instructors);

4. shall attend POST-sponsored instructor retrainers as required by POST.

C. Special guest instructors shall meet the following qualifications:

1. shall have advanced knowledge or expertise in the area in which they are instructing;

2. shall not certify students in defensive tactics, firearms or corrections fields.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:664 (April 1999).

§4721. Firearms Qualification

A. Pre-Academy Firearms Training

1. Any person employed or commissioned as a peace officer, or reserve or part-time peace officer must successfully

complete a pre-academy firearms training program as prescribed by the council within 30 days from the date of initial employment if that person will be performing the duties of a peace officer before attending a basic law enforcement training course.

B. Pre-Academy and Basic Firearms Qualification

1. Students shall qualify with an approved service weapon on the POST-approved Firearms Qualification Course and all scoring will be computed and recorded by a firearms instructor certified by the POST Council.

a. During a pre-academy training program, a student who fails may be given retests. Any person who fails shall be prohibited from exercising the authority of a peace officer until they have successfully completed the course. However, such persons shall not be prohibited from performing administrative duties.

b. During a basic law enforcement training course, it shall be left to the discretion of the training center director whether a student who fails to qualify on the POST Qualification Course will be given retests. However, if retests are given, the scores will be averaged in accordance with POST regulations and must be completed before the academy class graduates.

2. On a twenty-five (25) yard range equipped with POST-approved P-1 targets, the student, given a pistol or revolver, holster and 240 rounds of ammunition, will fire the POST firearms qualification at least four (4) times. Scores must be averaged and the student must:

- a. fire all courses in the required stage time;
- b. use the correct body position for each course of fire;
- c. fire the entire course using double action only, except in the case of single action only semi-automatic pistols;
- d. fire no more than the specified number of rounds per stage;
- e. fire each course at a distance no appreciably less nor greater than that specified.
- f. achieve an average score of not less than 96 out of a possible 120 which is 80 percent or above. The score shall be computed as follows: $\text{Score 1} + \text{Score 2} + \text{Score 3} + \text{Score 4} = \text{Qualifying Score (divided by) the number of attempts.}$
- g. all stages of fire must be fired in the manner specified.

3. All targets will be graded and final scores computed by a POST-certified Firearms Instructor.

C. Annual Requalification

1. The POST firearms requirements for annual requalification are the same as for basic qualification with one exception. If the POST Fire-arms qualification course must be fired more than once, the scores shall be averaged as designated in basic firearms qualification.

2. All targets will be graded and final scores computed by a POST-certified Firearms Instructor.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:343 (August 1987), amended LR 25:664 (April 1999).

§4723. POST Firearms Qualification Course

A. Stage One

1. At the 25-yard line, the student will fire six rounds strong hand barricade standing, six rounds, strong hand, barricade kneeling, and six rounds, strong hand or off hand barricade, standing, offside, barricade in ninety seconds. Movement to the barricade is required to a maximum distance of 5 yards.

B. Stage Two

1. At the seven-yard line, the student will fire 12 rounds, standing in 25 seconds, with mandatory reloading for all weapons after first six rounds; 6 rounds kneeling in 10 seconds, and 6 rounds off-hand only in 8 seconds.

C. Stage Three

1. At the four-yard line, student will fire three rounds, one-or two-hands, instinct shooting position from holster, in three seconds, and three rounds, one-or two hands, instinct shooting position from ready-gun position, in three seconds. This is repeated once.

D. Stage Four

1. At the two-yard line, one or two hands close quarter shooting position from holster, the student will fire two rounds in two seconds. This is repeated twice. During the shooting, the student is required to move one step to the rear. E. The entire POST firearms qualification course is fired with a hot line, meaning the officer shall automatically reload as soon as his weapon is empty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, LR 13:434 (August 1987), amended LR 25:665 (April 1999).

§4731. Revocation of Certification

A. All law enforcement agencies and correctional agencies and institutions within the State of Louisiana shall immediately report the conviction of any POST certified full-time, reserve, or part-time peace officer to the council.

B. Any offense which results in the individual peace officer's restriction of his/her constitutional right to bear arms shall be grounds for immediate revocation. The revocation of any certification is effective immediately when the council receives a certified copy of a court's judgment and issues notice to the peace officer. Notice of the revocation shall be sent via certified US mail to the peace officer and the officer's employing agency.

C. All criminal convictions involving a peace officer shall be directed to the council's attention for potential revocation hearings. The council shall review each criminal conviction and conduct hearings on each reported conviction.

D. The chairman of the council shall designate a revocation committee to review potential peace officer revocations and report any findings to the next council meeting. The revocation committee shall consist of:

1. a police chief;
2. a sheriff;
3. a district attorney;
4. the Superintendent of State Police; and
5. the Attorney General or his designee.

E. Any hearings conducted by the council or the revocation committee shall be conducted according to guidelines established by the council.

F. Any peace officer whose certification has been revoked by the Council may file an appeal under the provisions of the Administrative Procedure Act under R.S. 49:964.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, amended LR 25:665 (April 1999).

§4741. Training Centers

A. Each training center will be subject to a comprehensive performance review by the council once every four years.

B. Each training center will be monitored at least annually to ensure compliance with the council's training standards. C

Each training center shall transmit to the POST Council a schedule of POST certifiable training being conducted. The training schedule shall be submitted no later than the Friday preceding the date on which the training is to be conducted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:1204 and R.S. 15:1207.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Commission on Law Enforcement and Administration of Criminal Justice, amended LR 25:666 (April 1999).

Michael A. Ranatza
Executive Director

9904#059

RULE

Office of the Governor Office of Elderly Affairs

FY 1998-99 State Plan on Aging
(LAC 4:VII.1307)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Governor's Office of Elderly Affairs (GOEA) hereby amends LAC 4:VII.1307, the FY 1998-1999 Louisiana State Plan on Aging. This rule change is in accordance with the *Code of Federal Regulation*, 45 CFR 1321.19 "Amendments to the State Plan." The purpose of this rule change is to change LAC 4:VII.1307.E.1.g, Special Provisions, from "The state Long Term Care Ombudsman Program will be supplemented with Title III-B funds and disbursement of funds to local entities will follow the same method of allocation used since FY 1990" to "The state Long Term Care Ombudsman Program will disburse program funds in an equitable manner", becoming effective April 20, 1999.

The FY 1998-1999 Louisiana State Plan on Aging was adopted and published by reference in the September 20, 1997 issue of the *Louisiana Register*, Volume 23, Number 9. The full text of the State Plan may be obtained by contacting the GOEA at the address below or the Office of the State Register at 1051 North Third Street, Room 512, Baton Rouge, LA 70802, telephone (504) 342-5015.

Title 4

ADMINISTRATION

Part VII. Governor's Office

Chapter 13. State Plan on Aging

§1307. Special Provision

A. - E.1.f. ...

g. The state Long Term Care Ombudsman Program will disburse program funds in an equitable manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:932(8)

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Elderly Affairs, LR 19:1307 (October 1993), repealed and promulgated LR 23:1146 (September 1997), amended LR 25:666 (April 1999).

Paul F. "Pete" Arceneaux, Jr.
Executive Director

9904#060

RULE

Department of Health and Hospitals Office of the Secretary

Memorandum of Understanding
Between the Department of Health and Hospitals and
the Capital Area Human Services District FY 98/99
(LAC 48:I.Chapter 27)

In accordance with R.S. 46:2661 et seq., as enacted by Act 54 of the first Extraordinary Session of the 1996 Legislature, the Department of Health and Hospitals, Office of the Secretary hereby adopts the following rule.

Title 48

PUBLIC HEALTH—GENERAL

Part I. General Administration

Subpart 1. General

Chapter 27. Memorandum of Understanding Between the Department of Health and Hospitals and the Capital Area Human Services District

§2701. Introduction

This agreement is entered into by and between Department of Health and Hospitals, hereinafter referred to as DHH, and Capital Area Human Services District, hereinafter referred to as CAHSD, in compliance with LA RS 46:2661 through 46:2666 as well as any subsequent legislation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:948 (May 1998), amended LR 25:666 (April 1999).

§2703. Purpose and General Agreement

A. The Department of Health and Hospitals is authorized by law to provide for the direction, operation, development and management of programs of community-based mental health, mental retardation/developmental disabilities, alcohol and substance abuse, public health and related activities for eligible consumers in Louisiana.

B. The legislation authorizes CAHSD to provide services of community-based mental health, developmental disabilities, alcohol and substance abuse, public health and related activities for eligible consumers in the CAHSD, which includes East Baton Rouge, West Baton Rouge, Ascension, Iberville, and Pointe Coupee parishes; and to assure that services meet all relevant federal and state regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:948 (May 1998), amended LR 25:666 (April 1999).

§2705. Designation of Liaisons

A. The primary liaison persons under this agreement are:

1.	DHH	Deputy Secretary
2.	CAHSD	Executive Director

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:949 (May 1998), amended LR 25:667 (April 1999).

§2709. Services To Be Delivered

A. In order to provide a broad spectrum of coordinated public services to consumers of OMH, OCDD, OADA, OPH and for the District Administration, the CAHSD will assume programmatic, administrative and fiscal responsibilities for including, but not limited to, the following:

1. OCDD Community Support;
2. Mental Health Services consistent with the State Mental Health Plan, as required under the annual Mental Health Block Grant Plan;
3. Outpatient Treatment (Non-Intensive) OADA;
4. Community Based Residential Services OADA;
5. Intensive Outpatient Treatment/Day Treatment OADA;
6. Non-Medical/Social Detoxification OADA;
7. Primary Prevention;
8. Healthy Community Regional Program OPH;
9. HIV/AIDS Prevention Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:949 (May 1998), amended LR 25:667 (April 1999).

§2711. Responsibilities of Each Party

A. CAHSD accepts the following responsibilities:

1. to perform the functions which provide community-based services and continuity of care for the diagnosis, prevention, detection, treatment, rehabilitation and follow-up care of mental and emotional illness.
2. to be responsible for community-based programs and functions relating to the care, diagnosis, eligibility determination, training, treatment, case management of developmentally disabled and autistic persons as defined by the MRDD law.

3. the CAHSD shall work closely with the OCDD in managing the waiver functions, including placement of individuals and maintenance of the waiting list;

4. to promote, support and provide community based planning of broad health issues through the Healthy Communities Strategic Planning model;

5. the CAHSD will provide for the gradual assumption of appropriate community public health functions;

6. to perform community-based functions related to the care, diagnosis, training, treatment, and education of alcohol or drug abusers and primary prevention of alcohol and drug abuse;

7. to perform community-based functions related to the care, diagnosis, training, treatment and education of gambling abuse;

8. to maintain services in community-based mental health, developmental disabilities, and substance abuse at least at the same level as the state maintains similar programs;

9. to ensure that the quality of services delivered is equal to or higher than the quality of services previously delivered by the state;

10. to perform human resources functions necessary for the operation of the CAHSD;

11. to be responsible for the provision of any function/service, reporting or monitoring, mandated by the Block Grant Plan of each respective program office;

12. provide systems management and services data/reports in a format and content as that required of all regions by each DHH program office. Specific content of required information sets will be negotiated and issued annually through program office directives;

13. utilize ARAMIS, MIS, SPOE and any other required DHH/program office systems to meet state and federal reporting requirements;

14. human resource staffing data will be available for on-site review;

15. maintain and support Single Point of Entry (SPOE) state standard;

16. provide for successful delivery of services to persons discharged from state facilities into the CAHSD service area by collaborative discharge planning;

17. provide in-kind or hard match resources as required for acceptance of federal grant or entitlement funds utilized for services in the CAHSD as appropriately and collaboratively applied for;

18. Make available a list of all social and professional services available to children and adults through contractual agreement with local providers.

19. CAHSD will work with Office of Alcohol and Drug Abuse to assure that all requirements and set asides of the Substance Abuse Block Grant are adhered to in the delivery of services;

20. The CAHSD shall develop and utilize a five year strategic plan as required by Act 1465;

21. The CAHSD will provide HIV/AIDS Prevention Program services.

B. DHH retains/accepts the following responsibilities:

1. operation and management of any in-patient facility under jurisdiction of the DHH except that the CAHSD shall have authority and responsibility for determination of eligibility for receipt of such inpatient services (single point of entry function) which were determined at the regional level prior to the initiation of this Agreement .

2. operation, management and performance of functions and services for environmental health;

3. operation, management and performance of functions related to the Louisiana Vital Records Registry and the collection of vital statistics;

4. operation, management and performance of functions and services related to laboratory analysis in the area of personal and environmental health;

5. operation, management and performance of functions and services related to education provided by or authorized by any state or local educational agency;

6. monitoring this service agreement, assuring corrective action through coordination with CAHSD and reporting failures to comply to the Governor's office;

7. operation, management and performance of functions for pre-admission screening and resident review process for Nursing Home Reform;

8. operation, management and performance of functions for enrollment and monitoring of Medicaid targeted case management;

9. DHH, each quarter, will share with CAHSD information regarding, but not limited to, program data, statistical data, and planning documents that pertain to the CAHSD;

10. DHH retains all Prior Authorization functions for Mental Health Medicaid Services;

11. DHH shall be responsible for transferring \$30,000 to CAHSD for the purposes of contract attorney services. DHH will provide legal support and representation in judicial commitments to the Department.

C. Joint Responsibilities:

1. to determine if community-based mental health, developmental disabilities, substance abuse, and public health services are delivered at least at the same level by CAHSD as the State provides for similar programs in other areas. Performance indicators shall be established. Such indicators will measure extensiveness of services, accessibility of services, availability of services and, most important, quality of services and/or outcome measures. The CAHSD will not be required to meet performance indicators which are not mandated for state-operated programs in these service areas, and which were not previously collected by Region 2.

2. CAHSD's progress toward achieving outcomes which meet or exceed those realized by DHH-operated programs in the affected geographic region shall be measured by comparing the CAHSD data on results to baseline statistics reported by Regional DHH programs for the year prior to July 1, 1997. Specific outcome measurements/performance indicators to be compared will be jointly agreed upon by CAHSD and DHH;

3. the CAHSD shall work closely with the OCDD in transitioning individuals from Pinecrest and Hammond

Developmental Centers to the district ensuring individualized planning, the implementation of chosen life activities and needed supports, and the development of circles of support for the individual to ensure relationship building and community participation;

4. CAHSD will work with the Office of Alcohol and Drug Abuse to assure the key performance indicators are the same for CAHSD and Office of Alcohol and Drug Abuse;

5. CAHSD will work with the Office of Alcohol and Drug Abuse to assure there is a clear audit trail for linking alcohol and drug abuse funding and staffing to alcohol and drug abuse services;

6. CAHSD and Region II, OPH managers will collaborate to perform community based functions which provide services and continuity of care for education, prevention, detection, treatment, rehabilitation and follow up care related to personal and community health.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:949 (May 1998), LR 25:667 (April 1999).

§2713. Reallocation of Resources/Staff and Financial Agreements

A. For FY 98-99, DHH agrees to transfer financial resources to the direction and management of the CAHSD.

B. The CAHSD will submit to DHH an annual budget request for funding of the cost for providing the services and programs for which the CAHSD is responsible . The format for such request shall be consistent with that required by the Division of Administration and DHH. The request shall conform with the time frame established by DHH. CAHSD Executive Director will meet with the Office of the Secretary to discuss all new and expanded program request prior to presentation to DOA.

C. The CAHSD shall operate within its budget allocation and for services required by this MOU, report budget expenditures to DHH.

D. Revisions of the budget may be made upon written consent between the CAHSD and DHH and, as appropriate, through the Legislative Budget Committee's BA-7 process. In the event any additional funding is appropriated and received by DHH that affects any budget categories for the direction, operation, and management of the programs of mental health, mental retardation/developmental disabilities, substance abuse services, and public health, and related activities for any other such DHH entities or regions, the CAHSD will receive additional funds on the same basis as other program offices.

E. In the event of a budget reduction, CAHSD will receive a proportionate reduction in its budget.

F. The CAHSD shall assume all financial assets and/or liabilities associated with the programs transferred.

G. CAHSD shall be responsible for repayment of any funds received which are determined ineligible and subsequently disallowed.

H. DHH agrees to maintain the level of support from the Office of the Secretary and from the Office of Management and Finance which is consistent with the current level of

support now provided to the regional OCDD, OMH, and OADA and OPH offices. These supports include:

1. Communication and Inquiry;
2. Internal Audit;
3. Environmental Consultant;
4. Fiscal Management;
5. Information Services;
6. Facility Management;
7. Budget, Contract and Lease Management;
8. Research and Development;
9. Materials Management;
10. Appeals, Human Rights, and Staff Development/Training.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:950 (May 1998), amended LR 25:668 (April 1999).

§2715. Joint Training and Meetings

CAHSD, through its staff, will participate in DHH and other programmatic training, meetings and other activities as agreed upon by CAHSD and DHH. In a reciprocal manner, CAHSD will provide meetings, training sessions, and other activities that will be available for participation by DHH staff as mutually agreed upon by the CAHSD and the DHH.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:950 (May 1998), amended LR 25:669 (April 1999).

§2717. Special Provisions

A. The CAHSD agrees to abide by all applicable Federal, State, and Parish law regarding nondiscrimination in service delivery and/or employment of individuals because of race, color, religion, sex, age, national origin, handicap, political beliefs, disabled veteran, veteran status, or any other non-merit factor.

B. The CAHSD shall maintain a property control system of all movable property in the possession of the CAHSD that was formally under the control of DHH, and of all additional property acquired.

C. For purposes of purchasing, travel reimbursement, and securing of social service/professional contracts, the CAHSD shall utilize established written bid/RFP policies and procedures. Such policies and procedures shall be developed in adherence to applicable statutory and administrative requirements. The CAHSD shall provide informational copies of such policies and procedures to DHH as requested until CAHSD develops their own policies and procedures they will use the current DHH policies.

D. The CAHSD shall abide by all court rulings and orders that affect DHH and impact entities under the CAHSD's control, and shall make reports to DHH Bureau of Protective Services all applicable cases of alleged abuse, neglect, exploitation, or extortion of individuals in need of protection in a format prescribed by DHH.

E. CAHSD shall be responsible for providing services to citizens of East & West Feliciana Parishes at a level at least equal to services rendered by DHH Region II prior to July 1,

1997. This will also include any new services provided and funded by CAHSD through DHH subsequent to July 1997.

F. If OADA is successful in establishing an Inpatient Gambling program, this will not be managed by CAHSD since this is a statewide program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:951 (May 1998), amended LR 25:669 (April 1999).

§2719. Renewal/Termination

A. This agreement will cover the period of time from July 1, 1998 to June 30, 1999.

B. This agreement will be revised on an annual basis, as required by law, and will be promulgated through the Administrative Procedure Act. The annual agreement shall be published in the state register each year in order for significant changes to be considered in the budget process for the ensuing fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:2661.

HISTORICAL NOTE: Promulgated by the Department of Health and Hospitals, Office of the Secretary, LR 24:948 (May 1998), amended LR 25:669 (April 1999).

David W. Hood
Secretary

9904#043

RULE

Department of Health and Hospitals Office of the Secretary Bureau of Health Services Financing

CommunityCARE Emergency Services

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 4704 of the Balanced Budget Act of 1997 concerning provision of emergency medical services to Medicaid recipients enrolled in the Medicaid program known as the CommunityCARE Program.

Emergency medical services with respect to a CommunityCARE enrollee are defined as furnished by a provider that is qualified to provide such services under Medicaid and consist of covered inpatient and outpatient services that are needed to evaluate or stabilize an emergency medical condition. The CommunityCARE enrollees who present themselves for emergency medical services shall receive an appropriate medical screening to determine if an emergency medical condition exists. A triage protocol is not

sufficient to be an appropriate medical screening. If the medical screening does not indicate an emergency medical condition exists, the treating hospital/physician shall refer the CommunityCARE enrollee back to his/her primary care physician for treatment.

David W. Hood
Secretary

9904#045

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Emergency Medical Services—Ambulance Certification

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq., 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 establishes the following list of medical and safety equipment as requirements for certification of all ambulances operating within the State of Louisiana.

I. All ambulances must have a National Standard Public Safety two-way radio communication (day-to-day communications). The ambulance dispatch center(s) and/or point(s) of dispatch must be capable of interactive two-way communications within all of the service’s defined area:

A. All dispatch center(s) and/or point(s) of dispatch shall have a proper FCC licensed radio system or an agreement with an FCC licensed communication provider that does not allow for transmission by unauthorized users, but will provide the capability for the dispatcher, with one transmission, to be heard simultaneously by all of its ambulances/emergency medical response vehicles within that defined geographic service area.

B. Services that utilize multiple transmitters/tower sites shall have simultaneous communications capabilities with all units utilizing a specific transmitter/tower site.

C. Two-way radio with disaster communications must be either:

a. VHF—Hospital Emergency Activation Radio (HEAR) system 155.340 Mhz with carrier squelsh, ENCODER optional; or

b. 800 Mhz Trunking—SmartNet or Smart Zone—using the ICALL or ITAC frequencies.

D. Direct communication with a physician and hospital must be conducted through:

HEAR; or cellular telephone; or Radio Telephone Switch Station (RTSS); or Med. System 10, etc.

II. All ambulances must carry the following basic medical supplies and equipment:

Two suction units - one must generate 300 mm Hg and one must be portable	1 each
Appropriate refill canister/liners for suction unit (if required)	2
Suction tubing, wide bore	2
Rigid pharyngeal/tonsillar wide bore suction	2
Suction catheters 5, or 6, or 5/6 and 14 French	2 each
Fixed oxygen system with variable flow regulator and humidifier - minimum 500 PSI	1
Portable oxygen cylinder - full 2000 + psi size “D” or above	2
Variable flow regulator and an oxygen wrench	1
Adult non-rebreather oxygen masks with tubing	4
Pediatric non-rebreather oxygen masks with tubing	4
Nasal prongs, “nasal cannulas”, adult with O ₂ tubing	4
CPR mask or barrier device, with one-way valve or filter	1
Adult bag valve mask devices with oxygen reservoirs and tubing	2 each
Pediatric bag valve mask devices with oxygen reservoirs and tubing, approximately 450 cc. Note: Recommend no pop-off valve or making the valve inoperable	2
Oral airways - adult, child, and infant	2 each
Cervical collars- extra small/small or equivalent, medium/large or equivalent	2 each 4 each
Cervical immobilization device - head blocks, other commercial head immobilization device or firm padding to improvise such a device such as towels or blankets that are not used to fulfill any other requirement	2 sets
Traction splint with ankle hitch, adult	1
Extremity splint - upper and lower	2 each
Short spinal immobilization device with appropriate straps and pillows	2
Long spinal immobilization device with at least three points of confinement - not including the head immobilization device, one of which must be a scoop stretcher with at least three straps or other clamshell device Note: Wood acceptable if impervious to body fluids. Disposable cardboard not acceptable	3
Clean burn sheets, individually wrapped	2
Triangular bandages	8
Sterile multi-trauma dressings, 10" x 30"	2

Sterile combine dressings, minimum 5" x 9"	10
Sterile 4" x 4" gauze pads	25 packs minimum 2 per pack
Sterile individually packed occlusive dressings, 3" x 3" or larger	4
Roller gauze, clean, at least 2 inches wide	10 rolls
Cold packs	4
Sterile water - 500 cc plastic container	1
Normal saline - plastic containers	2 liters
Oral Glucose - based Paste (cake icing acceptable)	Min. 12.5g
Medical adhesive tape, 1" and 2" or wider (paper tape not acceptable)	6 each
OB kit: 2 towels, a 4" x 4" dressing, umbilical tape, sterile cutting instrument, a bulb suction, clamps for the cord, sterile gloves, and blanket	2
Blood pressure cuff, adult and pediatric, multi-cuff kits are acceptable	1 each
Stethoscope	1
Emergency Medical Technician - Shears, assigned to vehicle or crew members	1 pair
Clean, single use bite sticks	2
Flashlights - two "C" size battery minimum	2
Blankets	2
Sheets, linen or paper	4
Fire extinguisher - 10 B:C, 1 in patient compartment, and 1 accessible from driver cab. Note: no Halon	2
Triage Tags	25
Current hazardous material reference guide (U.S. Department of Transportation or equivalent)	1
Reflective triangles a set that consists of 3 or more triangles	1 set

III. All ambulances must carry the following infection control supplies and equipment:

Full peripheral glasses, and face masks, surgical; or face shields for splash protection	2 4 4
Gloves, nonsterile	1 box
Handwash, commercial antimicrobial	1 bottle or can or 12 towelettes
Sharps container, OSHA approved, one quart or larger	1

Readily identifiable trash bags, labeled for contaminated wastes	2
Jumpsuit/gown, impervious to liquid, disposable	1 per crew member
Shoe covers, disposable	1 pair per crew member
Tuberculosis mask, OSHA approved	1 per crew member

IV. All ambulances must be equipped with the following:

Hard hat and safety goggles (ANSI Z 37.1); or NFPA-approved fire helmet with face shield may be substituted for the hard hat and safety goggles	1 per crew member
Gloves, leather or Nomex, over-wrist	1 pair per crew member

V. The following must be carried by all intermediate and paramedic level ambulances:

All IV fluids must be in plastic bags or bottle, not glass bottles, unless medically indicated otherwise.

Dextrose 5 percent in water or .9 percent NAACL in 250 ml bags	2 bags
Normal saline or Lactate Ringers contained in not less than 4 approved containers	4000 cc in not less than 4 approved containers
Normal saline - 500 cc minimum over and above irrigation	2000 cc
Macro drip administration sets	4
Minidrip administration sets	4
Venous tourniquets	2
IV Roof hook or pole	1
IV Catheters - 22, 20, 18, 16 and 14 gauge	4 each
Y-type blood infusion set with in line filter	1
Antiseptic solution pads	10
Arm boards -various sizes	3
3-way stop cock	1
Extension tubing	2
Syringe with luer-lock -30 cc minimum	2
Sharps container OSHA approved, suitable for sharps disposal at patient's side	1

VI. The following must be carried by all paramedic level ambulances:

Intra osseous needles of choice	2
1 cc syringe with 1/10 cc graduates	2
3 to 6 cc syringe	2
10 to 12 cc syringe	2
Hypodermic needles, 18 to 20 Ga.	2
Hypodermic needles, 21 to 23 Ga.	2
Hypodermic needles, 25 to 27 Ga.	2
Laryngoscope handle with 1 set extra batteries and bulb or 2 disposable handle units	1
Laryngoscope blade, Size 0 straight or 2 each disposable	1
Laryngoscope blade, Size 1 straight or 2 each disposable	1
Laryngoscope blade, Size 2 straight or 2 each disposable	1
Laryngoscope blade, Size 3 straight or curved or 2 each disposable	1
Laryngoscope blade, Size 4 straight or curved or 2 each disposable	1
Endotracheal tubes, uncuffed, size 3.0 or 3.5	2
Endotracheal tubes, uncuffed, size 4.0 or 4.5	2
Endotracheal tubes, uncuffed, size 5.0 or 5.5	2
Endotracheal tubes, cuffed, size 6.0 or 6.5	2
Endotracheal tubes, cuffed, size 7.0 or 7.5	2
Endotracheal tubes, cuffed, size 8.0 or 8.5	2
Stylettes for ET tubes, adult and pediatric	2 each
Magill forceps, adult and pediatric	1 each
Water soluble lubricating jelly non-cellulose containing - 5 packs or 1 tube	1
Cardiac monitor/defibrillator with paper recorder, defibrillator pads or gel, quick look paddles or hands off capability, chest attachment cable and pads, capable of min.5 to 360 joules. An automatic external defibrillator may be used if it has manual override capability and all other features listed.	1
Pediatric drug dosing chart or tape to include all mandated drugs	1
Home use glucometer - FDA approved	1
*Nastrogastric tube (when use allowed) 5 Fr.	1
*Nastrogastric tube (when use allowed) 8 Fr.	1
*Nastrogastric tube (when use allowed)14 to 18 Fr.	1
DRUGS	

Adenosine 6 mg	3
Albuterol inhalation solution (2.5 mg) with appropriate delivery device	1
Aspirin 325 mg (5 grains)	1
Atropine	3 mg
Benadryl (50 mg for IV use)	1
Bretylium tosylate, 500 mg	3
Calcium chloride, 10 percent	1 g
Diazepam	10 mg injectable
Dopamine (200 mg minimum vials)	400 mg
Dextrose, 25g in 50 cc	2
Epinephrine, 1:1,000 (minimum 2 mg) and Epinephrine 1:10,000 (minimum 2 mg)	12 mg min. Total
Lidocaine, 1g vial or premixed 4 mg/cc	1g
Lidocaine, 100 mg boluses	4
Loop diuretic (e.g., furosemide 80 mg or bumetanide 2 mg)	1 dose
Naloxone	4 mg
NTG spray or tablets	3 doses
Magnesium sulfate, 1 gram	1 g
Sodium bicarbonate, 44 meq minimum	2
Verapamil, 10 mg	1

David W. Hood
Secretary

9904#031

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Emergency Medical Services—Emergency Medical Response Vehicles Certification (Sprint Vehicles)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following rule under the Medical Assistance Program as authorized by R.S. 32:1 et seq. 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 following provisions to establish certification requirements for all emergency medical response vehicles.

An *emergency medical response vehicle* is defined as a marked emergency vehicle with full visual and audible warning

signals operated by a certified ambulance service; the primary purpose of which is to respond to the scene of a medical emergency to provide emergency medical stabilization or support, or command control and communication, but which is not an ambulance designed or intended for the purpose of transporting a victim from the scene to a medical facility regardless of its designation. Included, but not limited to are such vehicles designated as "sprint car", "quick response vehicle", "special response vehicle", "triage trucks", "supervisor units", and other similar designations. Fire apparatus and law enforcement patrol vehicles that carry first aid or emergency medical supplies and respond to medical emergencies as part of their routine duties shall not be considered emergency medical response vehicles.

A. Qualifications of Vehicle. The vehicle may be on either an automobile or truck chassis, have four or more wheels and must have the following:

1. Emergency Warning Lights. These lights shall be mounted as high and as widely spaced laterally apart as practicable. There must be two alternating flashing red lights on the front of the vehicle mounted at the same level. There must be two alternating flashing red lights on the rear of the vehicle mounted at the same level. These front and rear lights shall have sufficient intensity to be visible at five hundred feet in normal sunlight. Exceptions:

a. Any authorized emergency vehicle may be equipped with a large revolving red light on the roof instead of alternating flashing red lights on the front. This light must be discernible in all directions and have sufficient intensity to be visible at five hundred feet in normal sunlight.

b. Authorized emergency medical response vehicles of organized fire companies may be equipped with a large red and white light on the roof encased in a clear dome, instead of the large red light on the roof. This light must be discernible in all directions and have sufficient intensity to be visible at five hundred feet in normal sunlight.

2. Audible Warning Signals. Each emergency medical response vehicle must have a siren, exhaust whistle, or bell capable of giving an audible signal sufficient to warn motorists of its approach (audible up to five hundred feet).

3. External markings:

a. All numbering and lettering shall be reflective.
 b. The unit number shall be displayed in numerals three (3) inches high or greater on the rear and both sides of the vehicle.

c. The agency's name shall appear on both sides of the vehicle in lettering 3 inches high or greater, or with a logo that is 6 inches or greater in size.

d. The agency's name or logo shall appear on the trunk or rear door in lettering 3 inches high. Agency logos must be specific to the agency and on file with the Department of Health and Hospitals.

e. The vehicle's markings shall indicate its designation as an emergency medical response vehicle such as "Sprint Car, Supervisor, Chief, Special Services", etc. No markings on the vehicle may imply that it is an ambulance.

B. Equipment and Supplies

1. All vehicle units must have a Federal Communication Commission (FCC) typed acceptable two way radio communication system (day-to-day communications). The emergency medical response vehicle dispatch center(s) and/or

point(s) of dispatch must be capable of interactive two-way radio communications within all of the service's defined area:

a. All dispatch center(s) and/or point(s) of dispatch shall have a proper FCC licensed radio system or an agreement with an FCC licensed communication provider that does not allow for transmission by unauthorized users, but will provide the capability for the dispatcher, with one transmission, to be heard simultaneously by all of its ambulances/emergency medical response units within that defined geographic service area.

b. Services that utilize multiple transmitters/tower sites shall have simultaneous communications capabilities with all units utilizing a specific transmitter/tower site.

c. In addition to the day-to-day communication system a two way radio with disaster communications capability which must be either:

i. VHF Band - Hospital Emergency Activation Radio (HEAR) system 155.340 MHz with carrier squelsh, ENCODER optional; or

ii. 800 Mhz Band - SmartNet or Smart Zone - using the ICALL or ITAC frequencies in both the repeater and simplex modes in accordance with the FCC Region 18 Public Safety Radio Communication Plan.

d. Direct communication with a physician and hospital must be conducted through:

- i. HEAR; or
- ii. wireless telephone; or
- iii. Radio Telephone Switch Station (RTSS); or
- iv. Med. System 10, etc.

2. All emergency medical response vehicles must be equipped with the following:

Fire Extinguisher with a minimum of Underwriters Laboratory rating of 10:B,C (1) (no Halon). This device should be properly secured in the vehicle	1
Triangle reflectors	1 set of three triangle
Flashlight, 2 "C" cell or larger	1
Current hazardous materials reference guide U.S. Department Of Transportation or equivalent.	1
Hard Hat and Safety goggles (ANSI Z 37.1) or	1 per crew member
National Fire Protection Association approved fire helmet with face shield; and	1 per crew member
Gloves, leather or Nomex, over-wrist	1 pair per crew member

3. All emergency medical response vehicles must have basic life support medical supplies as follows:

Portable suction unit	1
Appropriate refill canister/liners for suction unit (if required)	1
Suction tubing, wide bore (if required)	1
Rigid pharyngeal/tonsillar wide bore suction	1

Suction catheters 5 or 6 or 5/6 and 14 French (if required)	1 each
Portable oxygen cylinder - full, 2000 + psi size "D" or above	1
Variable flow regulator and an oxygen wrench	1
Adult non-rebreather oxygen masks with tubing	1
Pediatric non-rebreather oxygen masks with tubing	1
Nasal prongs "nasal cannulas", adult with O ₂ tubing	1
CPR mask or barrier device with one-way valve or filter	1
Adult bag valve mask devices with oxygen reservoirs and tubing	1 each
Pediatric bag valve mask devices with oxygen reservoirs and tubing, approximately 450 cc.; Note: Recommend no pop-off valve or make the valve inoperable	1
Oral airways - adult, child, and infant	1 each
Cervical collars - extra small/small or equivalent medium/large or equivalent	1 each
Cervical immobilization device - head blocks, other commercial head immobilization device or firm padding to improvise for such a device (such as towels or blankets not used to fulfill any other requirement)	1 set
Extremity splint suitable for upper or lower extremity fracture	1
Long spinal immobilization device may be a scoop stretcher with at least three straps or other clamshell devices Note: Wood acceptable if impervious to body fluids. Disposable cardboard not acceptable	1
Clean burn sheet, individually wrapped	1
Triangular bandages	2
Sterile multi-trauma dressing, 10" x 30"	1
Sterile combine dressings, minimum 5" x 9"	4
Sterile 4" x 4" gauze pads	10 packs minimum 2 per pack
Sterile individually packed occlusive dressings, 3" x 3" or larger	2
Roller gauze, clean, at least 2 inch wide	4 rolls
Normal saline - plastic containers	1 liter
Oral Glucose - based Paste (cake icing acceptable)	Min. 12.5g
Medical adhesive tape, 1" and 2" or wider (paper tape not acceptable)	1 each

OB kit: 2 towels, a 4" x 4" dressing, umbilical tape, sterile cutting instrument, a bulb suction, clamps for the cord, sterile gloves, and a blanket	1
Unopened box aluminum foil or silver swaddler	1
Blood pressure cuff, adult and pediatric, multi-cuff kits are acceptable	1 each
Stethoscope	1 pair
EMT Shears	1
Clean, single use bite stick	1
Blanket	1
Triage Tags	25

4. All emergency medical response vehicles that are not staffed and equipped to the EMT-Paramedic level must carry an automated external defibrillator (either automatic or semi-automatic) with the appropriate lead cables and at least two sets of the appropriate disposable electrodes. If the automated defibrillator is also capable of manual defibrillation, then an appropriate lock out mechanisms (such as an access code, computer chip, or lock and key) to prevent unauthorized use of the device by those persons not authorized to manually defibrillate must be an integral part of the device.

5. All emergency medical response vehicles must carry infection control equipment as follows:

Full Peripheral Glasses (1) or Face Mask, surgical (1 set); or, face shield for splash protection (1)	1
Gloves, Non-sterile	1 box
Handwash, Commercial Antimicrobial	1 bottle or can or 12 towelettes
Sharps container, OSHA approved	1
Readily identifiable trash bags, labeled for contaminated wastes	1
Jumpsuit/gown, impervious to liquid, disposable	1 per crew member
Shoe covers, disposable	1 per crew member
Tuberculosis mask, OSHA approved	1 per crew member

6. The following must be carried by intermediate level and paramedic level emergency medical response vehicles:

All IV fluids must be in plastic bags or jugs, not glass bottles, unless medically indicated otherwise.

Dextrose 5 percent in water - in 250 ml bags or .9 percent NAACL	1 bag
Normal saline or lactated ringer's contained in not less than 4 approved containers	1000 cc in at least 2 approved containers
Macro drip Administration Sets	1
Minidrip Administration Sets	2

Venous Tourniquet	1
IV Catheters - 22, 20, 18, 16, and 14 gauge	1 each
Antiseptic Solution pads	6
3-way stop cock	1
Extension tubing	1
Syringe with Luer-lock 30 cc minimum	1

7. The following must be carried by all paramedic level emergency medical response vehicles:

Intra osseous needles of choice	1
1 cc syringe with 1/10 cc graduates	1
3 to 6 cc syringe	1
10 to 12 cc syringe	1
Hypodermic needle, 18 to 20 Ga.	1
Hypodermic needle, 21 to 23 Ga.	1
Hypodermic needle, 25 to 27 Ga.	1
Laryngoscope handle with 1 set extra batteries and bulb or 1 disposable handle unit	1
Laryngoscope blade, Size 0 Straight or 1 each disposable handle unit	1
Laryngoscope blade, Size 1 Straight or 1 each disposable handle unit	1
Laryngoscope blade, Size 2 Straight or 1 each disposable handle unit	1
Laryngoscope blade, Size 3 Straight or Curved or 1 each disposable handle unit	1
Laryngoscope blade, Size 4 Straight or Curved or 1 each disposable handle unit.	1
Endotracheal tubes, Uncuffed, Size 3.0 or 3.5	1
Endotracheal tubes, Uncuffed, Size 4.0 or 4.5	1
Endotracheal tubes, Uncuffed, Size 5.0 or 5.5	1
Endotracheal tubes, cuffed, Size 6.0 or 6.5	1
Endotracheal tubes, cuffed, Size 7.0 or 7.5	1
Endotracheal tubes, cuffed, Size 8.0 or 8.5	1
Stylettes for ET tubes, adult and pediatric	1 each
Magill Forceps, adult and pediatric	1 each
Water soluble lubricating jelly non-cellulose containing	1 pack of 5 or 1 tube

Cardiac monitor/defibrillator with paper recorder, defib pads or gel, quick look paddles or hands off capability, chest attachment cable and pads, capable of min. 5 to 360 joules. An automatic external defibrillator may be used if it has manual override capability and all other features listed.	1
Pediatric drug dosing chart or tape to include all mandated drugs	1
Home use glucometer (FDA approved)	1
Nasogastric Tube (when use allowed) 5 Fr	1
Nasogastric Tube (when use allowed) 8 Fr	1
Nasogastric Tube (when use allowed) 14 to 18 Fr	1
DRUGS	
Albuterol inhalation solution 2.5 mg with appropriate delivery device	1
Aspirin 325 mg 5 grains	1
Atropine	3 mg
Benadryl 50 mg for IV use	1
Bretylium tosylate, 500 mg	1
Diazepam	10 mg injectable
Dopamine 200 mg minimum Vials	200 mg
Dextrose, 25 g in 50 cc	1
Epinephrine, 1:1,000 minimum 2 mg and Epinephrine 1:10,000 minimum 2 mg	4 mg min.
Lidocaine, 100 mg boluses	3
Loop diuretic e.g. furosemide 80 mg or bumetanide 2 mg	1 dose
Naloxone	2 mg
NTG spray or tablets	3 doses
Sodium bicarbonate, 44 meq min	2

David W. Hood
Secretary

9904#033

RULE

**Department of Health and Hospitals
Office of the Secretary
Bureau of Health Services Financing**

Intermediate Care Facilities for the Mentally Retarded—Standards for Payment (LAC 50:II.Chapter 103)

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the

following rule under the Medical Assistance Program as authorized by R.S. 46:153 et seq., and pursuant to Title XIX of the Social Security Act. This proposed rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq.

Title 50

PUBLIC HEALTH—MEDICAL ASSISTANCE

Part II. Medical Assistance

Subpart 3. Standards for Payment

Chapter 103. Standards for Payment for Intermediate Care Facilities for the Mentally Retarded (ICF/MR)

Subchapter A. Foreword, Definitions and Acronyms

§10301. Foreword

A. The ICF/MR Standards for Payment specify the requirements of federal and state law and regulations governing services provided by Intermediate Care Facilities for the Mentally Retarded and persons with other Developmental Disabilities (ICF/MR).

B. The Medicaid Program is administered by the Louisiana Department of Health and Hospitals (DHH) in cooperation with other federal and state agencies.

C. Standards are established to ensure minimum compliance under the law, equity among those served, provision of authorized services, and proper disbursement. If there is a conflict between material in these standards and the federal and state laws or policies governing the program, the state laws or policies governing the program have precedence. These standards provide the ICF/MR with information necessary to fulfill the provider enrollment contract with the agency. It is the ICF/MR facility's responsibility to keep these standards current. The standards are the basis for surveys by federal and state agencies, are part of the enrollment contract, and are necessary for the ICF/MR to remain in compliance with federal and state laws.

D. Monitoring of an ICF/MR's compliance with state and federal regulations is the responsibility of DHH's Bureau of Health Services Financing (BHFS).

E. The Bureau of Health Services Financing (BHSF) Health Standards Section (HSS) is responsible for determining an ICF/MR's compliance with state licensing requirements and compliance with specific Title XIX certification requirements which include physical plant, staffing, dietary, pharmaceuticals, active treatment, and other standards. Minimum Licensure Requirements for ICF/MRs are covered in the booklet entitled *Licensing Requirements for Residential Care Providers* and Subpart I of the *Code of Federal Regulations*, Chapter 42:483.400-483.480.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:676 (April 1999).

§10303. Definitions and Acronyms Specific to Mental Retardation and Other Developmental Disabilities

A. Definitions regarding Mental Retardation are adopted from the American Association on Mental Deficiency *Manual*

on Terminology and Classification in Mental Retardation, 1977 Edition.

B. Definitions for Developmental Disabilities are taken from the 1983 amended R.S. 28:330-444 based on Public Law 95-602.

C. All clients must meet the criteria for mental retardation and other developmental disabilities in order to qualify for Title XIX reimbursement for ICF/MR services.

AAMR—American Association of Mental Retardation (formerly the *AAMD*—American Association of Mental Deficiency).

Abuse—the infliction of physical or mental injury to a client or causing a client's deterioration to such an extent that his/her health, moral or emotional well-being is endangered. Examples include, but are not limited to: sexual abuse, exploitation or extortion of funds or other things of value.

Active Treatment—an aggressive and consistent program of specialized and generic training, treatment, health and related services directed toward the acquisition of behaviors necessary for the client to function with as much self determination and independence as possible and the prevention and deceleration of regression or loss of current optimal functional status.

Adaptive Behavior—the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected for his age and cultural group. Since these exceptions vary for different age groups, deficits in adaptive behavior will vary at different ages.

Agency—See *Medicaid Agency*.

Ambulatory—an ability to walk about.

ANSI—American National Standards Institute.

Applicant—an individual whose written application for Medicaid has been submitted to the agency but whose eligibility has not yet been determined.

ART—Accredited Record Technician.

Attending Physician—a physician, currently licensed by the Louisiana State Board of Medical Examiners, designated by the client, family, agency, or responsible party as responsible for the direction of overall medical care of the client.

Autism—a condition characterized by disturbance in the rate of appearance and sequencing of developmental milestones: abnormal responses to sensations, delayed or absent speech and language skills while specific thinking capabilities may be present, and abnormal ways of relating to people and things.

BHSF—Bureau of Health Services Financing. See *Health Services Financing*.

Board Certified Social Worker (BCSW)—a person holding a Master of Social Work (MSW) degree who is licensed by the Louisiana State Board of Certified Social Work Examiners.

Capacity for Independent Living—the ability to maintain a full and varied life in one's own home and community.

Cerebral Palsy—a permanently disabling condition resulting from damage to the developing brain, which may occur before, during or after birth and results in loss or impairment of control over voluntary muscles.

Certification—a determination made by the Department of Health and Hospitals (DHH) that an ICF/MR meets the necessary requirements to participate in Louisiana as a provider of Title XIX (Medicaid) Services.

Change in Ownership (CHOW)—any change in the legal entity responsible for the operation of an ICF/MR.

Chief Executive Officer (CEO)—an individual licensed, currently registered, and engaged in the day to day administration/management of an ICF/MR.

Client—an applicant for or recipient of Title XIX (Medicaid) ICF/MR services.

Code of Federal Regulations (CFR)—the regulations published by the federal government. Section 42 includes regulations for ICF/MRs.

Comprehensive Functional Assessment—identifies the client's need for services and provides specific information about the client's ability to function in different environments, specific skills or lack of skills, and how function can be improved, either through training, environmental adaptations, or provision of adaptive, assistive, supportive, orthotic, or prosthetic equipment.

Developmental Disabilities (DD)—severe, chronic disabilities which are attributable to mental retardation, cerebral palsy, autism, epilepsy or any other condition, other than mental illness, found to be closely related to mental retardation. This condition results in an impairment of general intellectual functioning or adaptive behavior similar to that of mental retardation, and requires treatment or services similar to those required for MR/DD are manifested before the person reaches age 22 and are likely to continue indefinitely.

Developmental Period—a period from birth to before a person reaches age 22.

DHH—Louisiana's Department of Health Hospitals.

DHHS—the federal Department of Health and Human Services in Washington, D.C.

Dual Diagnosis—clients who carry diagnoses of both mental retardation and mental illness.

Enrollment—process of executing a contract with a licensed and certified ICF/MR provider for participation in the Medical Assistance Program. Enrollment includes the execution of the provider agreement and assignment of the provider number used for payment.

Epilepsy—disorder of the central nervous system which is characterized by repeated seizures which are produced by uncontrolled electrical discharges in the brain.

Facility—an Intermediate Care Facility for the Mentally Retarded and Developmentally Disabled.

Fiscal Intermediary—the private fiscal agent with which DHH contracts to operate the Medicaid Management Information System. It processes the Title XIX (Medicaid) claims for services provided under the Medical Assistance Program and issues appropriate payment(s).

General Intellectual Functioning—results obtained by assessment with one or more of the individually administered general intelligence tests developed for that purpose.

HCFA—Health Care Financing Administration.

Health Services Financing, Bureau of (BHSF)—a division of DHH responsible for administering, overseeing, and monitoring the state's Medicaid Program.

HSS—Health Standards Section within BHSF, the section responsible for licensing, certifying and enrolling ICFs/MR.

I.Q.—Intelligence Quotient.

Individual Habilitation Plan (IHP)—the written ongoing program of services developed for each client by an interdisciplinary team in order for that client to achieve or maintain his/her potential. The plan contains specific, measurable goals, objectives and provides for data collection.

Individual Plan of Care (IPC)—same as *Individual Habilitation Plan*.

Individual Program Plan (IPP)—same as *Individual Habilitation Plan*.

Individual Service Plan (ISP)—same as *Individual Habilitation Plan*.

Interdisciplinary Team (IDT)—a group of individuals representing the different disciplines in the formulation of a client's Individual Habilitation Plan. That team meets at least annually to develop and review the plans, more frequently if necessary.

Intermediate Care Facility for the Mentally Retarded and Developmentally Disabled (ICF/MR)—same as Facility for the Mentally Retarded or Persons with Related Conditions.

Learning—general cognitive competence. The ability to acquire new behaviors, perceptions, and information and to apply previous experiences in new situations.

Legal Status—a designation indicative of an individual's competency to manage their affairs.

Level of Care (LOC)—service needs of the client based upon his/her comprehensive functional status.

Licensed—a determination by the Louisiana Department of Health and Hospitals, Bureau of Health Service Financing, that an ICF/MR meets the state requirements to participate in Louisiana as a provider of ICF/MR services.

Living Unit—a place where a client lives including sleeping, training, dining and activity areas.

LPN—Licensed Practical Nurse.

LSC—Life Safety Code.

LTC—Long Term Care.

Major Life Activities—any one of the following activities or abilities:

- a. self-care;
- b. understanding and use of language;
- c. learning;
- d. mobility;
- e. self-direction;
- f. capacity for independent living.

Measurable Outcomes—a standard or goal by which performance is measured and evaluated.

Mechanical Support—a device used to achieve proper body position or balance.

Medicaid—medical assistance provided according to the State Plan approved under Title XIX of the Social Security Act.

Medicaid Agency—the single state agency responsible for the administration of the Medical Assistance Program (Title XIX). In Louisiana, the Department of Health and Hospitals is the single state agency.

Medicaid Management Information System (MMIS)—the computerized claims processing and information retrieval

system which includes all ICF/MR providers eligible for participation in the Medical Assistance Program. This system is an organized method for payment for claims for all Title XIX Services.

Medical Assistance Program (MAP)—another name for the Medicaid Program.

Medicare—the federally administered Health Insurance program for the aged, blind and disabled under the Title XVIII of the Social Security Act.

Medicare Part A—the Hospital Insurance program authorized under Part A of Title XVIII of the Social Security Act.

Medicare Part B—the Supplementary Medical Insurance program authorized under Part B of Title XVIII of the Social Security Act.

Mental Retardation (MR)—significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior, and manifested during the developmental period.

Note: It shall be emphasized that a finding of low I.Q. is never by itself sufficient to make the diagnosis of mental retardation or in evaluating its severity. A low I.Q. shall serve only to help in making a clinical judgement regarding the client's adaptive behavioral capacity. This judgement also includes present functioning including academic and vocational achievement, motor skills, and social and emotional maturity.

Mobility—motor development and ability to use fine and gross motor skills; the ability to move the extremities at will.

Mobil Nonambulatory—the inability to walk without assistance, but the ability to move from place to place with the use of a device such as a walker, crutches, wheelchair or wheeled platform.

Neglect—the failure to provide proper or necessary medical care, nutrition or other care necessary for a client's well being.

New Facility—an ICF/MR newly opened or recently began participating in the Medical Assistance Program.

Nonambulatory—the inability to walk without assistance.

Nursing Facility or Facility—health care facilities such as a private home, institution, building, residence, or other place which provides maintenance, personal care, or nursing services for persons who are unable to properly care for themselves because of illness, physical infirmity or age. These facilities serve two or more persons who are not related by blood or marriage to the operator and may be operated for profit or nonprofit.

Office for Citizens with Developmental Disabilities (OCDD)—the office within DHH responsible for programs serving the MR/DD population.

Operational—admission of at least one client, completion of functional assessments(s) and development of individual program plan(s) for the client(s); and implementation of the program plan(s) in order that the facility actually demonstrate the ability, knowledge, and competence to provide active treatment.

Overall Plan of Care (OPC)—see *Individual Habilitation Plan*.

Provider—any individual or entity enrolled to furnish Medicaid Services under a provider agreement with the Medicaid Agency.

Qualified Mental Retardation Professional (QMRP)—a person who has specialized training and at least one year or more of experience in treating and/or working directly with and in direct contact with the Mentally Retarded clients. To qualify as a QMRP a person must meet the requirements of 42 CFR 483.430.

Recipient—an individual who has been determined eligible for Medicaid.

Registered Nurse (RN)—a nurse currently registered and licensed by the Louisiana State Board of Nursing.

Representative Payee—a person designated by the Social Security Administration to receive and disburse benefits in the best interest of and according to the needs of the beneficiary.

Responsible Party—a person authorized by the client, agency or sponsor to act as an official delegate or agent in dealing with the Department of Health and Hospitals and/or the ICF/MR.

Self-Care—daily activities which enable a person to meet basic life needs for food, hygiene, appearance and health.

Self-Direction—management and control over one's social and personal life and the ability to make decisions that affect and protect one's own interests. A substantial functional limitation in self-direction would require a person to need assistance in making independent decisions concerning social and individual activities and/or in handling personal finances and/or in protecting his own self-interest.

Significant Assistance—help needed at least one-half of the time for one activity or a need for some help in more than one-half of all activities normally required for self-care.

Significantly Sub-Average—for purposes of certification for ICF/MR an I.Q. score of below 70 on the Wechsler, Stanford-Binet, Cattell, or comparable test will be considered to establish significantly sub-average intellectual functioning.

SNF—Skilled Nursing Facility.

Sponsor—an adult relative, friend, or guardian of the client who has a legitimate interest in or responsibility for the client's welfare. Preferably, this person is designated on the admission forms as "responsible party."

Substantial Functional Limitation—a condition that limits a person from performing normal life activities or makes it unsafe for a person to live alone to such an extent that assistance, supervision, or presence of a second person is required more than half of the time.

Title XIX—see *Medicaid*.

Training and Habilitation Services—services intended to aid the intellectual, sensorimotor and emotional development of a client as part of overall plans to help the individual function at the greatest physical, intellectual, social and vocational level he/she can presently or potentially achieve.

Understanding and Use of Language—communication involving both verbal and nonverbal behavior enabling the individual both to understand others and to express ideas and information to others.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578

(October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:676 (April 1999).

Subchapter B. Participation

§10305. General Provisions

Note: The federal regulation pertaining to this Section is 42 CFR 442-483.400 and 435.1008.

A. Scope

1. The standards set forth in this and subsequent sections comply with the Title XIX requirements of the amended Social Security Act. That Act sets the standards for the care, treatment, health, safety, welfare and comfort of Medical Assistance clients in facilities providing ICF/MR services.

2. These standards apply to ICF/MRs certified and enrolled by the Louisiana Department of Health and Hospitals (DHH) for vendor participation.

3. These standards supplement current licensing requirements applicable to ICF/MRs. Any infraction of these standards may be considered a violation of the provider agreement between DHH and the ICF/MR.

4. In the event any of these standards are not maintained, DHH will determine whether facility certification will continue with deficiencies as is allowed under Title XIX regulations or whether termination of the Provider Agreement is warranted. Although vendor payment will not be suspended during the determination period, deficiencies which may affect the health, safety, rights and welfare of Medical Assistance clients must be corrected expeditiously in order for the ICF/MR to continue to participate.

5. If a certified ICF/MR is found to have deficiencies which immediately jeopardize the health, safety, rights and welfare of its Medical Assistance clients, DHH may initiate proceedings to terminate the ICF/MR's certification. In the event of less serious deficiencies, DHH may impose interim sanctions (see §10357, Sanctions).

B. General Admission and Funding Criteria

Note: The federal regulation pertaining to this Subsection is 42 CFR 483.440.

1. Capacity. The ICF/MR will admit only the number of individuals that does not exceed its rated capacity as determined by the BHSF's HSS and its capacity to provide adequate programming.

2. Admission Requirements. Except on a short term emergency basis, an ICF/MR may not admit individuals as clients unless their needs can be met and an interdisciplinary professional team has determined that admission is the best available plan for them. The team must do the following:

a. conduct a comprehensive evaluation of each individual that covers physical, emotional, social and cognitive factors; and

b. perform the following tasks prior to admission:

i. define the individual's need for service without regard to the availability of those services; and

ii. review all appropriate programs of care, treatment, and training and record the findings;

c. ensure that the ICF/MR takes the following action if admission is not the best plan but the individual must nevertheless be admitted:

i. clearly acknowledges that admission is inappropriate; and

ii. initiates plans to actively explore alternatives.

3. Prohibitions on Federal Financial Participation

a. Federal funds in the Title XIX ICF/MR program are not available for clients whose individual treatment plans are totally or predominately vocational and/or educational. ICF/MR services are designed essentially for those individuals diagnosed as developmentally disabled; having developmental lags which are considered amendable to treatment in a 24-hour managed care environment where they will achieve maximum growth. Services to treat educational and vocational deficits are available at the community level while the client lives in his own home or in another community level placement and are not considered amendable to treatment in a 24-hour managed care environment.

b. Admissions through the Court System

i. Court ordered admissions do not guarantee Medicaid vendor payment to a facility. A court can order that a client be placed in a particular facility but cannot mandate that the services be paid for by the Medicaid program.

ii. Incarcerated individuals are not eligible for Medicaid. The only instance in which such an individual may qualify is if he/she is paroled or released on medical furlough.

C. Enrollment of Intermediate Care Facilities for the Mentally Retarded in the Medicaid Program

1. An ICF/MR may enroll for participation in the Medical Assistance Program (Title XIX) when all the following criteria have been met:

a. the ICF/MR has received Facility Need Review approval from DHH;

b. the ICF/MR has received approval from DHH/OCDD;

c. the ICF/MR has completed an enrollment application for participation in the Medical Assistance Program;

d. the ICF/MR has been surveyed for compliance with federal and state standards, approved for occupancy by the Office of Public Health (OPH) and the Office of the State Fire Marshal, and has been determined eligible for certification on the basis of meeting these standards; and

e. the ICF/MR has been licensed and certified by DHH.

2. Procedures for Certification of New ICF/MRs. The following procedures must be taken in order to be certified as a new ICF/MR.

a. The ICF/MR shall apply for a license and certification.

b. DHH shall conduct or arrange for surveys to determine compliance with Title XIX, Title VI (Civil Rights), Life Safety, and Sanitation Standards.

c. Facilities must be operational a minimum of two weeks (14 calendar days) prior to the initial certification survey. Facilities are not eligible to receive payment prior to the certification date.

i. *Operational* is defined as admission of at least one client, completion of functional assessment and development of individual program plan for each client; and

implementation of the program plan(s) in order for the facility to actually demonstrate the ability, knowledge, and competence to provide active treatment.

ii. Fire and health approvals must be obtained from the proper agencies prior to a client's admission to the facility.

iii. The facility must comply with all standards of the State of Louisiana Licensing Requirements for Residential Care Providers.

iv. A certification survey will be conducted to verify that the facility meets all of these requirements.

d. A new ICF/MR shall be certified only if it is in compliance with all conditions of participation found in 42 CFR 442 and 42 CFR 483.400 et seq.

e. The effective date of certification shall be no sooner than the exit date of the certification survey.

3. Certification Periods

a. DHH may certify an ICF/MR which fully meets applicable requirements for a maximum of 12 months.

b. Prior to the agreement expiration date, the provider agreement may be extended for up to two months after the agreement expiration date if the following conditions are met:

i. the extension will not jeopardize the client's health, safety, rights and welfare; and

ii. the extension is needed to prevent irreparable harm to the ICF/MR or hardship to its clients; or

iii. the extension is needed because it is impracticable to determine whether the ICF/MR meets certification standards before the expiration date.

D. Ownership

Note: The federal regulations pertaining to this Subsection are as follows: 42 CFR 420.205; 440.14; 442.15; 455.100; 455.101; 455.102 and 455.103.

1. Disclosure. All participating Title XIX ICF/MRs are required to supply the DHH Health Standards Section with a completed HCFA Form 1513 (Disclosure of Ownership) which requires information as to the identity of the following individuals:

a. each person having a direct or indirect ownership interest in the ICF/MR of 5 percent or more;

b. each person owning (in whole or in part) an interest of 5 percent or more in any property, assets, mortgage, deed of trust, note or other obligation secured by the ICF/MR;

c. each officer and director when an ICF/MR is organized as a corporation;

d. each partner when an ICF/MR is organized as a partnership;

e. within 35 days from the date of request, each provider shall submit the complete information specified by the BHSF/HSS regarding the following:

i. the ownership of any subcontractor with whom this ICF/MR has had more than \$25,000 in business transactions during the previous 12 months; and

ii. information as to any significant business transactions between the ICF/MR and the subcontractor or wholly owned suppliers during the previous five years.

2. The authorized representative must sign the Provider Agreement.

a. If the provider is a nonincorporated entity and the owner does not sign the provider agreement, a copy of power of attorney shall be submitted to the DHH/HSS showing that the authorized representative is allowed to sign on the owner's behalf.

b. If one partner signs on behalf of another partner in a partnership, a copy of power of attorney shall be submitted to the DHH/HSS showing that the authorized representative is allowed to sign on the owner's behalf.

c. If the provider is a corporation, the board of directors shall furnish a resolution designating the representative authorized to sign a contract for the provision of services under DHH's state Medical Assistance Program.

3. Change in Ownership (CHOW)

a. A Change in Ownership (CHOW) is any change in the legal entity responsible for the operation of the ICF/MR.

b. As a temporary measure during a change of ownership, the BHSF/HSS shall automatically assign the provider agreement and certification, respectively to the new owner. The new owner shall comply with all participation prerequisites simultaneously with the ownership transfer. Failure to promptly complete with these prerequisites may result in the interruption of vendor payment. The new owner shall be required to complete a new provider agreement and enrollment forms referred to in Continued Participation. Such an assignment is subject to all applicable statutes, regulations, terms and conditions under which it was originally issued including, but not limited to the following:

i. any existing correction action plan;

ii. any expiration date;

iii. compliance with applicable health and safety standards;

iv. compliance with the ownership and financial interest disclosure requirements;

v. compliance with Civil Rights requirements;

vi. compliance with any applicable rules for Facility Need Review;

vii. acceptance of the per diem rates established by DHH/BHSF's Institutional Reimbursement Section; and

viii. compliance with any additional requirements imposed by DHH/BHSF/HSS.

c. For an ICF/MR to remain eligible for continued participation after a change of ownership, the ICF/MR shall meet all the following criteria:

i. state licensing requirements;

ii. all Title XIX certification requirements;

iii. completion of a signed provider agreement with the department;

iv. compliance with Title VI of the Civil Rights Act; and

v. enrollment in the Medical Management Information system (MMIS) as a provider of services.

d. A facility may involuntarily or voluntarily lose its participation status in the Medicaid Program. When a facility loses its participation status in the Medicaid Program, a minimum of 10 percent of the final vendor payment to the facility is withheld pending the fulfillment of the following requirements:

i. submission of a limited scope audit of the client's personal funds accounts with findings and recommendations by a qualified accountant of the facility's choice to the department's Institutional Reimbursement Section:

(a). the facility has 60 days to submit the audit findings to Institutional Reimbursement once it has been notified that a limited scope audit is required;

(b). failure of the facility to comply with the audit requirement is considered a Class E violation and will result in fines as outlined in §10357, Sanctions;

ii. the facility's compliance with the recommendations of the limit scope audit;

iii. submittal of an acceptable final cost report by the facility to Institutional Reimbursement;

iv. once these requirements are met, the portion of the payment withheld shall be released by the BHSF's Program Operations Section.

e. Upon notification of completion of the ownership transfer and the new owner's licensing, DHH/HSS will notify the Fiscal Intermediary regarding the effective dates of payment and to whom payment is to be made.

E. Provider Agreement

Note: Federal regulations pertaining to this subsection are as follows: 42 CFR 431.107, 442.10, 442.12, 442.13, 442.15, 442.16, 442.100 and 442.101.

In order to participate as a provider of ICF/MR services under Title XIX, an ICF/MR must enter into a provider agreement with DHH. The provider agreement is the basis for payments by the Medical Assistance Program. The execution of a provider agreement and the assignment of the provider's Medicaid vendor number is contingent upon the following criteria.

1. Facility Need Review Approval Required. Before the ICF/MR can enroll and participate in Title XIX, the Facility Need Review Program must have approved the need for the ICF/MR's enrollment and participation in Title XIX. The Facility Need Review process is governed by Department of Health and Hospitals regulations promulgated under authority of Louisiana R.S. 40:2116.

a. The approval shall designate the appropriate name of the legal entity operating the ICF/MR.

b. If the approval is not issued in the appropriate name of the legal entity operating the ICF/MR, evidence shall be provided to verify that the legal entity that obtained the original Facility Need Review approval is the same legal entity operating the ICF/MR.

2. The ICF/MR's Medicaid Enrollment Application. The ICF/MR shall request a Title XIX Medicaid enrollment packet from the Medical Assistance Program Provider Enrollment Section. The information listed below shall be returned to that office as soon as it is completed:

a. two copies of the Provider Agreement Form with the signature of the person legally designated to enter into the contract with DHH;

b. one copy of the Provider Enrollment Form (PE 50) completed in accordance with accompanying instructions and signed by the administrator or authorized representative;

c. one copy of the Title XIX Utilization Review Plan Agreement Form showing that the ICF/MR accepts DHH's Utilization Review Plan;

d. copies of information and/or legal documents as outlined in Subsection D (Ownership) of this section;

3. The Effective Date of the Provider Agreement. The ICF/MR must be licensed and certified by the BHSF/HSS in accordance with provisions in 42 CFR 442.100-115 and provisions determined by DHH. The effective date of the provider agreement shall be determined as follows.

a. If all federal requirements (health and safety standards) are met on the day of the BHSF/HSS survey, then the effective date of the provider agreement is the date the on-site survey is completed or the day following the expiration of a current agreement.

b. If all requirements are specified in Subparagraph a above are not met on the day of the BHSF/HSS survey, the effective date of the provider agreement is the earliest of the following dates:

i. the date on which the provider meets all requirements; or

ii. the date on which the provider submits a corrective action plan acceptable to the BHSF/HSS; or

iii. the date on which the provider submits a waiver request approved by the BHSF/HSS; or

iv. the date on which both ii and iii above are submitted and approved.

4. The ICF/MR's "Per Diem" Rate. After the ICF/MR facility has been licensed and certified, a per diem rate will be issued by the department.

5. Provider Agreement Responsibilities. The responsibilities of the various parties are spelled out in the Provider Agreement Form. Any changes will be promulgated in accordance with the Administrative Procedure Act.

6. Provider Agreement Time Periods. The provider agreement shall meet the following criteria in regard to time periods.

a. It shall not exceed 12 months.

b. It shall coincide with the certification period set by the BHSF/HSS.

c. After a provider agreement expires, payment may be made to an ICF/MR for up to 30 days.

d. The provider agreement may be extended for up to two months after the expiration date under the following conditions:

i. it is determined that the extension will not jeopardize the client's health, safety, rights and welfare; and

ii. it is determined that the extension is needed to prevent irreparable harm to the ICF/MR or hardship to its clients; or

iii. it is determined that the extension is needed because it is impracticable to determine whether the ICF/MR meets certification standards before the expiration date.

7. Tuberculosis (TB) Testing as Required by the OPH. All residential care facilities licensed by DHH shall comply with the requirements found in Section 3, Chapter II, of the *State Sanitary Code* regarding screening for communicable disease of employees, residents, and volunteers whose work involves direct contact with clients. For questions regarding TB testing, contact the local office of Public Health.

8. Criminal History Checks. Effective July 15, 1996, the Office of State Police will perform criminal history checks on

nonlicensed personnel of health care facilities, in accordance with R.S. 40:1300.51-R.S. 40:1300.56.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:679 (April 1999).

§10307. Payments

Note: Regulations for this Section are found in the state's *Medicaid Eligibility Manual*, Chapter XIX (19).

A. Income Consideration in Determining Payment

1. Clients receiving care under Title XIX. The client's applicable income (liability) will be determined when computing the ICF/MR's vendor payments. Vendor payments are subject to the following conditions.

a. Vendor payments will begin with the first day the client is determined to be categorically and medically eligible or the date of admission, whichever is later.

b. Vendor payment will be made for the number of eligible days as determined by the ICF/MR per diem rate less the client's per diem applicable income.

c. If a client transfers from one facility to another, the vendors' payment to each facility will be calculated by multiplying the number of eligible days times the ICF/MR per diem rate less the client's liability.

2. Client Personal Care Allowance. The ICF/MR will not require that any part of a client's personal care allowance be paid as part of the ICF/MR's fee. Personal care allowance is an amount set apart from a client's available income to be used by the client for his/her personal use. The amount is determined by DHH.

B. Payment Limitations

1. Temporary Absence of the Client. A client's temporary absence from an ICF/MR will not interrupt the monthly vendor payment to the ICF/MR, provided the following conditions are met:

a. the ICF/MR keeps a bed available for the client's return; and

b. the absence is for one of the following reasons:

i. hospitalization, which does not exceed seven days per hospitalization; or

ii. leave of absence. A temporary stay outside the ICF/MR provided for in the client's written Individual Habilitation Plan. A leave of absence will not exceed 45 days per fiscal year (July 1 through June 30), and will not exceed 30 consecutive days in any single occurrence. Certain leaves of absence will be excluded from the annual 45-day limit as long as the leave does not exceed the 30-consecutive-day limit and is included in the written Individual Habilitation Plan. These exceptions are as follows:

- (a). Special Olympics;
- (b). roadrunner-sponsored events;
- (c). Louisiana planned conferences;
- (d). trial discharge leave;

Note: Elopements and unauthorized absences under the Individual Habilitation Plan count against allowable leave days. However, Title XIX eligibility is not affected if the absence does not exceed 30 consecutive days and if the ICF/MR has not discharged the client.

c. the period of absence shall be determined by

counting the first day of absence as the day on which the first 24-hour period of absence expires;

d. a period of 24 continuous hours or more shall be considered an absence. Likewise, a temporary leave of absence for hospitalization or a home visit is broken only if the client returns to the ICF/MR for 24 hours or longer;

e. upon admission, a client must remain in the ICF/MR at least 24 continuous hours in order for the ICF/MR to submit a payment claim for a day of service or reserve a bed;

Example: A client admitted to an ICF/MR in the morning and transferred to the hospital that afternoon would not be eligible for any vendor payment for ICF/MR services.

f. if a client transfers from one facility to another, the unused leave days for the fiscal year also transfer. No additional leave days are allocated as a result of a transfer;

g. the ICF/MR shall promptly notify DHH of absences beyond the applicable 30- or seven-day limitations. Payment to the ICF/MR shall be terminated from the thirty-first or eight day, depending upon the leave of absence. Payment will commence after the individual has been determined eligible for Title XIX benefits and has remained in the ICF/MR for 30 consecutive days;

h. the limit on Title XIX payment for leave days does not mean that further leave days are prohibited when provided for in the Individual Habilitation Plan. After the Title XIX payment limit is met, further leave days may be arranged between the ICF/MR and the client, family or responsible party. Such arrangements may include the following options:

i. the ICF/MR may charge the client, family or responsible party an amount not to exceed the Title XIX daily rate;

ii. the ICF/MR may charge the client, family or responsible party a portion of the Title XIX daily rate;

iii. the ICF/MR may absorb the cost into its operation costs.

2. Temporary Absence of the Client Due to Evacuations. When local conditions require evacuation of ICF/MR residents, the following payment procedures apply:

a. when clients are evacuated for less than 24 hours, the monthly vendor payment is not interrupted;

b. when staff is sent with clients to the evacuation site, the monthly vendor payment is not interrupted;

c. when clients are evacuated to a family's or friend's home at the ICF/MR's request, the ICF/MR shall not submit a claim for a day of service or leave day, and the client's liability shall not be collected;

d. when clients go home at the family's request or on their own initiative, a leave day shall be charged;

e. when clients are admitted to the hospital for the purpose of evacuation of the ICF/MR, Medicaid payment shall not be made for hospital charges.

3. Payment Policy in regard to Date of Admission, Discharge, or Death

a. Medicaid (Title XIX) payments shall be made effective as of the admission date to the ICF/MR. If the client is medically certified as of that date and if either of the following conditions is met:

i. the client is eligible for Medicaid benefits in the ICF/MR (excluding the medically needy); or

ii. the client was in a continuous institutional living arrangement (nursing home, hospital, ICF/MR, or a combination of these institutional living arrangements) for 30 consecutive days; the client must also be determined financially eligible for Medical Assistance.

b. The continuous stay requirement is:

i. considered met if the client dies during the first 30 consecutive days.

ii. not interrupted by the client's absence from the ICF/MR when the absence is for hospitalization or leave of absence which is part of the written Individual Habilitation Plan.

c. The client's applicable income is applied toward the ICF/MR fee effective with the date Medicaid payment is to begin.

d. Medicaid payment is not made for the date of discharge; however, neither the client, family, nor responsible party is to be billed for the date of discharge.

e. Medicaid payment is made for the day of client's death.

Note: The ICF/MR shall promptly notify DHH/BHSF of admissions, death, and/or all discharges.

4. Advance Deposits

a. An ICF/MR shall neither require nor accept an advance deposit from an individual whose Medicaid (Title XIX) eligibility has been established.

Exception: An ICF/MR may require an advance deposit for the current month only on that part of the total payment which is the client's liability.

b. If advance deposits or payments are required from the client, family, or responsible party upon admission when Medicaid (Title XIX) eligibility has not been established, such a deposit shall be refunded or credited to the person upon receipt of vendor payment.

5. Retroactive Payment. When individuals enter an ICF/MR before their Medicaid (Title XIX) eligibility has been established payment for ICF/MR services is made retroactive to the first day of eligibility after admission.

6. Timely Filing for Reimbursements. Vendor payments cannot be made if more than 12 months have elapsed between the month of initial services and submittal of a claim for these services. Exceptions for payments of claims over 12 months old can be made with authorization from DHH/BHSF only.

7. Refunds to Clients

a. When the ICF/MR receives vendor payments, it SHALL refund any fees for services collected from clients, family or responsible party by the end of the month in which vendor payment is received.

b. Advance payments for a client's liability (applicable income) shall be refunded promptly if he/she leaves the ICF/MR.

c. The ICF/MR shall adhere to the following procedures for refunds:

i. The proportionate amount for the remaining days of the month shall be refunded to the client, family, or the responsible party no later than 30 days following the date of discharge. If the client has not yet been certified, the procedures spelled out in (a) above shall apply.

ii. No penalty shall be charged to the client, family, or responsible party even if the circumstances surrounding the discharge occurred as follows:

(a). without prior notice; or

(b). within the initial month; or

(c). within some other "minimum stay" period established by the ICF/MR.

iii. Proof of refund of the unused portion of the applicable income shall be furnished to BHSF upon request.

8. ICF/MR Refunds to the Department

a. Nonparticipating ICF/MR. Vendor payments made for services performed while an ICF/MR is in a nonparticipating status with the Medicaid Program shall be refunded to the Office of Management and Financing, Post Office Box 629, Baton Rouge, LA 70821-0629. The refund shall be made payable to the "Department of Health and Hospitals-Medicaid Program."

b. Participating ICF/MR. A currently participating Title XIX, ICF/MR shall correct billing or payment errors by use of appropriate adjustment void or Patient Liability (PLI) adjustment forms.

9. Sitters. An ICF/MR will neither expect nor require a client to have a sitter. However, the ICF/MR shall permit clients, families, or responsible parties directly to employ and pay sitters when indicated, subject to the following limitations:

a. The use of sitters will be entirely at the client's, family's, or responsible party's discretion. However, the ICF/MR shall have the right to approve the selection of a sitter. If the ICF/MR disapproves the selection of the sitter, the ICF/MR will provide written notification to the client, family, and/or responsible party, and to the Department of Health and Hospitals stating the reasons for disapproval.

b. Payment to sitters is the direct responsibility of the client, family or responsible party, unless:

i. the hospital's policy requires a sitter;

ii. the attending physician requires a sitter; or

iii. the Individual Habilitation Plan (IHP) requires a sitter.

Note: Psychiatric Hospitals are excluded from this requirement.

c. Payment to sitters is the direct responsibility of the ICF/MR facility when:

i. the hospital's policy requires a sitter and the client is on hospital leave days;

ii. the attending physician requires a sitter;

iii. the IHP requires a sitter.

d. A sitter will be expected to abide by the ICF/MR's rules and regulations, including health standards and professional ethics.

e. The presence of a sitter does not absolve the ICF/MR of its full responsibility for the client's care.

f. The ICF/MR is not responsible for providing a sitter if one is required while the resident is on home leave.

10. Tips. The ICF/MR shall not permit tips for services rendered by its employees.

C. Cost Reports

1. Providers shall use the same cost report form, budget form, and cost determination methods prescribed by DHH/BHSF's Institutional Reimbursements Section.

a. All cost report information shall be submitted in accordance with generally accepted accounting principles (GAAP) as well as state and federal regulations.

b. The accrual method of accounting is the only acceptable method for private providers.

c. State institutions shall be allowed to submit data on the cash basis.

2. All costs submitted on cost reports and budgets must be client care related. For information regarding cost report instructions, reporting requirements, allowable and unallowable costs, etc. refer to BHSF's *Rate Setting for Residential Care System Manual*. Requests for a copy of the manual may be submitted to DHH/BHSF/Institutional Reimbursement Section, Post Office Box 546, Baton Rouge, Louisiana 70821-0546.

3. Another source for guidance regarding allowable and unallowable cost is the federal publication Medicare Provider Reimbursement Manual (HIM-15). This manual can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Subchapter C. Client Records

§10309. General Requirements

Note: Federal regulations which pertain to this Subsection are as follows: 42 CFR 433 and 42 CFR 483.400.

A. Written Policies and Procedures. An ICF/MR facility shall have written policies and procedures governing access to, publication of, and dissemination of information from client records.

B. Protection of Records. Client records are the property of the ICF/MR residents and as such shall be protected from loss, damage, tampering, or use by unauthorized individuals. Records may be removed from the ICF/MR's jurisdiction and safekeeping only in accordance with a court order, subpoena or statute.

C. Confidentiality. An ICF/MR facility shall ensure confidential treatment of client records, including information contained in automatic data banks.

1. The client's written consent, if the client is determined competent, shall be required for the release of information to any persons not otherwise authorized under law to receive it. If the client is not documented as competent, a member of the family, responsible party or advocate shall be required to sign.

Note: "Blanket" signed authorizations for release of information from client records are time limited.

2. A record of all disclosures from client's records shall be kept.

3. All staff shall be trained in the policies regarding confidentiality during orientation to the ICF/MR and in subsequent on-the-job and in-service training.

4. Any information concerning a client or family considered too confidential for general knowledge by the ICF/MR staff shall be kept in a separate file by the chief executive officer, his designee, or social worker. A notation

regarding the whereabouts of this information shall be made in the client's record.

D. Availability of Records. The ICF/MR shall make necessary records available to appropriate state and federal personnel upon request.

E. Records Service System

1. The ICF/MR shall maintain an organized central record service for collecting and releasing client information. Copies of appropriate information shall be available in the client living units.

2. A written policy shall be maintained regarding a "charge out system" by which a client's record may be located when it is out of file.

3. The ICF/MR shall maintain a master alphabetical index of all clients.

4. All records shall be maintained in such a fashion as to protect the legal rights of clients, the ICF/MR, and ICF/MR staff.

F. General Contents of Records. A written record shall be maintained for each client.

1. Records shall be adequate for planning and for continuously evaluating each client's habilitation plan and documenting each client's response to and progress in the habilitation plan.

2. Records shall contain sufficient information to allow staff members to execute, monitor and evaluate each client's habilitation program.

G. Specifics Regarding Entries into Client Records. The following procedures shall be adhered to when making entries into a client's record.

1. All entries shall be legible, signed, and dated by the person making the entry.

2. All corrections shall be initialed and completed in such a manner that the original entry remains legible.

3. Entries shall be dated only on the date when they are made.

4. The ICF/MR shall maintain a roster of signatures, initials and identification of individuals making entries in each record.

H. Components of Client Records. Components of client records shall include, but shall not be limited to, the following:

1. admission records;
2. personal property records;
3. financial records;
4. medical records.

a. This includes records of all treatments, drugs, and services for which vendor payments have been made, or which are to be made, under the Medical Assistance Program.

b. This includes the authority for and the date of administration of such treatment, drugs, or services.

c. The ICF/MR shall provide sufficient documentation to enable DHH to verify that each charge is due and proper prior to payment.

5. All other records which DHH finds necessary to determine a ICF/MR's compliance with any federal or state law, rule or regulation promulgated by the DHH.

I. Retention of Records. The ICF/MR shall retain records for whichever of the following time frames is longer:

1. until records are audited and all audit questions are answered;
2. in the case of minors, three years after they become 18 years of age; or
3. three years after the date of discharge, transfer, or death of the client.

J. Interdicted Client. If the ICF/MR client has been interdicted, a copy of the legal documents shall be contained in the client's records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:684 (April 1999).

§10311. Admission Records

A. At the time of admission to the ICF/MR, information shall be entered into the client's record which shall identify and give a history of the client. This identifying information shall at least include the following:

1. a recent photograph;
2. full name;
3. sex;
4. date of birth;
5. ethnic group;
6. birthplace;
7. height;
8. weight;
9. color of hair and eyes;
10. identifying marks;
11. home address, including street address, city, parish and state;
12. Social Security Number;
13. medical assistance identification number;
14. Medicare claim number, if applicable;
15. citizenship;
16. marital status;
17. religious preference;
18. language spoken or understood;
19. dates of service in the United States Armed Forces, if applicable;
20. legal competency status if other than competent;
21. sources of support: social security, Veterans benefits, etc.;
22. father's name, birthplace, social security number, current address, and current phone number;
23. mother's maiden name, birthplace, social security number, current address, and current phone number;
24. name, address, and phone number of next of kin, legal guardian, or other responsible party;
25. date of admission;
26. name, address and telephone number of referral agency or hospital;
27. reason for admission;
28. admitting diagnosis;
29. current diagnosis, including primary and secondary DSM III diagnosis, if applicable;
30. medical information, such as allergies and general health conditions;

31. current legal status;
32. personal attending physician and alternate, if applicable;
33. choice of other service providers;
34. name of funeral home, if appropriate; and
35. any other useful identifying information. Refer to *Admission Review* for procedures.

B. First Month After Admission. Within 30 calendar days after a client's admission, the ICF/MR shall complete and update the following:

1. review and update the pre-admission evaluation;
2. develop a prognosis for programming and placement;
3. ensure that an interdisciplinary team completes a comprehensive evaluation and designs an Individual Habilitation Plan (IHP) for the client which includes a 24-hour schedule.

C. Entries into Client Records During Stay at the ICF/MR. The following information shall be added to each client's record during his/her stay at the ICF/MR:

1. reports of accidents; seizures, illnesses, and treatments for these conditions;
2. records of immunizations;
3. records of all periods where restraints were used, with authorization and justification for each, and records of monitoring in accordance with these standards;
4. reports of at least an annual review and evaluation of the program, developmental progress, and status of each client, as required in these standards;
5. behavior incidents and plans to manage inappropriate behavior;
6. records of visits and contacts with family and other persons;
7. records of attendance, absences, and visits away from the ICF/MR;
8. correspondence pertaining to the client;
9. periodic updates of the admission information (such updating shall be performed in accordance with the written policy of the ICF/MR but at least annually); and
10. appropriate authorizations and consents.

D. Entries at Discharge. At the time of a client's discharge, the QMRP or other professional staff, as appropriate, shall enter a discharge summary into the client's record. This summary shall address the findings, events, and progress of the client while at the ICF/MR and a diagnosis, prognosis, and recommendations for future programming.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 25:685 (April 1999).

§10313. Medical Records

A. General Requirements. The ICF/MR shall maintain medical records which include clinical, medical, and psychosocial information on each client.

B. Components of Medical Records. Each client's record shall consist of a current active medical section and the ICF/MR's medical files or folders.

1. Active Medical Section. The active medical section shall contain the following information:

- a. at least six months of current pertinent information relating to the active ongoing medical care;
- b. physician certification of the clients' need for admission to the ICF/MR;
- c. physician recertification that the client continues to require the services of the ICF/MR;
- d. nurses quarterly physical assessment. See §10339, Client Health and Habilitation Services;
- e. quarterly, the pharmacy consultant must review the drug regimen of each client;
- f. certification that each IHP has been periodically reviewed and revised.

2. Medical Files. As the active medical section becomes bulky, the outdated information shall be removed and filed in the ICF/MR's medical files.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 25:685 (April 1999).

§10315. Client Personal Property Records

Note: The federal regulations pertaining to this Section are 42 CFR 483.420.

The ICF/MR shall permit clients to maintain and use their personal property. The number of personal possessions may be limited only for health and safety reasons. When such limitations are imposed, documentation is required in the client's records.

1. Within 24 hours after admission, the ICF/MR shall prepare a written inventory of the personal property a client brings to the ICF/MR.

2. The facility authorized representative shall sign and retain the written inventory and shall give a copy to the client, family or responsible party.

3. The ICF/MR shall revise the written inventory to show if acquired property is lost, destroyed, damaged, replaced or supplemented.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:686 (April 1999).

§10317. Client Financial Records

Note: Federal regulations which pertain to this Section are 42 CFR 483.420(b).

A. General Requirements. Clients have the right to maintain their personal funds or to designate someone to assume this responsibility for them. Clients' income may be from Social Security, Supplemental Security Income (SSI), optional State Supplementation, other sources (VA or insurance benefits, etc.) or earnings of the client. A portion of the clients' income is used to pay the clients' share (liability) of the monthly charges for the ICF/MR. The ICF/MR shall:

1. have written policies and procedures for protecting clients' funds and for counseling clients concerning the use of their funds;

2. develop written procedures for the recording and accounting of client's personal funds.

Note: ICF/MRs shall ensure the soundness and accuracy of the client fund account system.

3. train clients to manage as many of their financial affairs as they are capable. Documentation must support that training was provided and the results of that training.

4. maintain current records that include the name of the person (client or person designated) handling each client's personal funds.

5. be responsible for the disbursements, deposits, soundness, and accuracy of the clients' personal funds account when arrangements are made with a federal or state insured banking institution to provide banking services for the clients.

Note: All bank charges, including charges for ordering checks, shall be paid by the ICF/MR and not charged to the clients' personal funds account(s).

6. maintain current, written individual ledger sheet records of all financial transactions involving client's personal funds which the facility is holding and safeguarding.

Note: ICF/MRs shall keep these records in accordance with requirements of law for a trustee in a fiduciary relationship.

7. make personal fund account records available upon request to the client, family, responsible party, and DHH.

B. Components Necessary for a Client Fund Account System. The ICF/MR shall maintain current, written individual records of all financial transactions involving clients' personal funds which the ICF/MR is holding, safeguarding, and accounting.

1. The ICF/MR shall keep these records in accordance with requirements of law for a trustee in a fiduciary relationship which exists for these financial transactions.

2. The ICF/MR shall develop the following procedures to ensure a sound and workable fund accounting system.

a. Individual Client Participation File. Client's ledger sheet shall consist of the following criteria.

i. A file shall exist for each participating client. Each file or record shall contain all transactions pertinent to the account, including the following information:

- (a). name of the client and date of admission;
- (b). deposits
 - (i). date;
 - (ii). source; and
 - (iii). amount.
- (c). withdrawals:
 - (i). date;
 - (ii). check/petty cash voucher number;
 - (iii). payee (if check is issued);
 - (iv). purpose of withdrawal; and
 - (v). amount.
- (d). fund balance after each transaction.

Note: Checks shall not be payable to "cash" or employees of the facility.

ii. Maintain receipts or invoices for disbursements that shall include the following information:

- (a). the date;
- (b). the amount;
- (c). the description of items purchased; and
- (d). the signature of the client, family, or responsible party to support receipt of items.

iii. supporting documentation shall be maintained for each withdrawal as follows:

- (a). cash register receipt with canceled check or petty cash voucher signed by the client; or
- (b). invoice with canceled check or petty cash voucher signed by the client; or
- (c). petty cash voucher signed by the client; or
- (d). canceled check.

Note: Canceled checks written to family members or responsible parties are sufficient receipt for disbursements if coupled with information regarding the purpose of expenditures.

iv. supporting documentation shall be maintained for each deposit as follows:

- (a). Receipts for all cash received on behalf of the residents; and
- (b). Copies of all checks received on behalf of the residents.

v. All monies, either spent on behalf of the client or withdrawn by the client, family, or responsible party, shall be supported on the individual ledger sheet by a receipt, invoice, canceled check, or signed voucher on file.

Note: It is highly recommended that the functions for actual disbursement of cash and reconciling of the cash disbursement record be performed by separate individuals.

vi. The file shall be available to the client, family, or other responsible party upon request during the normal administrative work day.

b. Client's Personal Funds Bank Account(s). ICF/MRs may deposit clients' money in individual or collective bank account(s). The individual or collective account(s) shall:

- (a). be separate and distinct from all ICF/MR facility accounts;
- (b). consist solely of clients' money and shall not be commingled with the ICF/MR facility account(s);
- (c). personal fund record shall be:
 - i. be maintained at the facility; and
 - ii. be available daily upon request during banking hours.

c. Reconciliations of Client's Personal Funds Account(s). There shall be a written reconciliation, at least monthly, by someone other than the custodian of the client's personal funds account(s). "Assets" (cash in bank, both checking and savings) must equal "liabilities" [ledger sheet balance(s)]. Collective bank accounts shall be reconciled to the total of client's ledger sheet balances. The reconciliation shall be reviewed and approved by someone other than the preparer or custodian of the client's personal funds account.

d. Unallowable Charges to Client's Personal Funds Account(s). It is the intent of the State of Louisiana that ICF/MRs provide total maintenance for recipients. The client's personal funds should be set aside for individual wants or to spend as the client sees fit. In the event that a client desires to purchase a certain brand, he/she has the right to use his/her personal funds in this manner; however, the client must be

made aware of what the facility is providing prior to making his/her decision. Written documentation must be maintained to support that the client was made aware of products or services the facility is obligated to provide. Listed below (but not limited to) are items that shall not be charged to a client's personal funds account(s), the client's family or responsible party(s):

- i. clothing. If a client does not have adequate seasonal clothing (including shoes, etc.), it is the responsibility of the facility to provide the clothing;
- ii. personal hygiene items;
- iii. haircuts;
- iv. dentures/braces, etc.;
- v. eyeglasses;
- vi. hearing and other communication aids;
- vii. support braces;
- viii. any other devices identified by the interdisciplinary team;
- ix. wheelchairs;
- x. repair and maintenance of items (d). - (i);
- xi. damage to facility property or the client's possessions; The client may not be charged for damage to facility property or the property of others caused by that individual's destructive behavior. ICF/MRs have a general responsibility to maintain the environment as a cost of doing business. Property of clients damaged or stolen by others must be replaced by the facility;
- xii. transportation;
- xiii. prescription or over-the-counter drugs;
- xiv. recreational costs included in the IHP;
- xv. medical expenses of any nature;
- xvi. tips, gifts, expenses for staff;
- xvii. supplies or items to meet goals of IHP.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:686 (April 1999).

§10319. Cash on Hand

A. ICF/MRs shall have a minimum of cash on hand to meet client's spending needs. Cash on hand shall be maintained on the imprest petty cash system which includes pre-numbered petty cash vouchers. Petty cash shall be maintained at the facility and shall be available to the clients 24 hours a day, seven days a week.

B. The facility shall provide the funds to implement the petty cash system and replenish it, as necessary, from the clients' personal funds based on signed vouchers. Vouchers may be signed by clients, families, or responsible parties. When residents cannot sign their name, vouchers shall be signed by two witnesses. Checks issued to replenish the fund should be made payable to "Custodian of Petty Cash." When funds are withdrawn from the clients' savings account to cover signed vouchers, a receipt signed by the custodian of petty cash shall be maintained in lieu of a canceled check.

C. There shall be a written reconciliation, at least weekly, by someone other than the custodian of the petty cash fund. The reconciliation shall be reviewed and approved by someone

other than the preparer or custodian of the petty cash fund.

Note: The facility is responsible for shortages.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Undersecretary, Bureau of Health Services Financing, LR 25:687 (April 1999).

§10321. Access to Funds

Clients shall have access to their funds during hours compatible to banking institutions in the community where they live. Large ICF/MRs shall post the times when clients shall have access to their funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:688 (April 1999).

§10323. Closing a Discharged Client's Fund Account

When a client is discharged, the ICF/MR shall refund the balance of a client's personal account and that portion of any advance payment not applied directly to the ICF/MR fee. The amount shall be refunded to the client, family or other responsible party within 30 days following the date of discharge. Date, check number, and "to close account" should be noted on the ledger sheet. When the facility is the payee for a Social Security check or other third party payments, the change in payee should be initiated immediately by the facility.

Note: The facility shall allow the client to withdraw a minimum of \$25 from his/her personal funds account on the date of discharge.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:688 (April 1999).

§10325. Disposition of a Deceased Client's Personal Funds

A. ICF/MRs, upon a client's death, shall submit written notification within 10 business days to the next of kin disclosing the amount of funds in the deceased's account as of the date of death. The ICF/MR shall hold the funds until the next of kin notifies the ICF/MR whether a succession will be opened.

1. Succession Opened. If a succession is to be opened, the ICF/MR shall release the funds to the administrator of the estate, if one, or according to the judgment of possession.

2. Succession Not Opened. If no succession is to be opened, the ICF/MR shall make the funds payable to the deceased's estate and shall release the funds to the responsible party of record.

B. Release of Funds. In any case in which funds are released in accordance with a court order, judgment of possession, or affidavit, the funds shall be made available to the persons or parties cited by the court order. The signed

statement shall be attached to the written authority and filed in the ICF/MR records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:688 (April 1999).

§10327. Disposition of Deceased Client's Unclaimed Personal Funds

A. If the ICF/MR retains the funds and the responsible party (legal guardian, administrator of the estate, or person placed in possession by the court judgment) fails to obtain the funds within three months after the date of death, or if the ICF/MR fails to receive notification of the appointment of or other designation of a responsible party within three months after the death, the ICF/MR shall notify the secretary of the Department of Revenue, Unclaimed Property Section. The notice shall provide detailed information about the decedent, his next of kin, and the amount of funds.

1. The facility shall continue to retain the funds until a court order specifies that the funds are to be turned over to secretary of the Department of Revenue.

2. If no order or judgment is forthcoming, the ICF/MR shall retain the funds for five years after date of death.

3. After five years, the ICF/MR is responsible for delivering the unclaimed funds to the secretary of Revenue.

4. A termination date of the account and the reason for termination shall be recorded on the client's participation file. A notation shall read, "to close account." The endorsed canceled check with check number noted on the ledger sheet shall serve as sufficient receipt and documentation.

5. Where the legislature has enacted a law governing the disposition of personal funds belonging to residents of state schools for the mentally retarded or developmentally disabled that law shall be applicable.

B. References. References for §§10325 and 10327 above are as follows:

1. *Civil Code* Article 2951 which deals with deposits of a deceased person.

2. *Code of Civil Procedure*, Articles 3421-3434, which deals with small successions requiring no judicial proceedings. Section 3431 specifically refers to persons who die intestate leaving no immovable property and whose sole heirs are his descendants, ascendants or surviving spouse.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:688 (April 1999).

Subchapter D. Transfers and Discharges

§10329. Written Agreements with Outside Resources

Note: The federal regulations pertaining to this Section are 483.410(d), 483.410(d)(1) through 483.410(d)(2)(ii) and 483.440(b)(1) through 483.440(b)(5)(ii).

Each client must have the services which are required to meet his needs including emergency and other health care. If the service is not provided directly, there must be a written agreement with an outside resource. The written agreement for

hospital transfers must be with hospitals within close proximity and must provide for prompt transfer of clients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:688 (April 1999).

§10331. Facility Responsibilities for Planned or Voluntary Transfer or Discharge Policies Requirements

A. Facility record shall document that the client was transferred or discharged for good cause which means for any reason that is in the best interest of the individual.

B. Any decision to move a client shall be part of an interdisciplinary team process. The client, family, legal representative, and advocate, if there is one, shall participate in the decision making process.

C. Planning for a client's discharge or transfer shall allow for at least 30 days to prepare the client and parents/guardian for the change except in emergencies.

D. Planning for release of a client shall include providing for appropriate services in the client's new environment, including protective supervision and other follow-up services which are detailed in his discharge plan.

E. The client and/or legal representative must give their written consent to all non-emergency situations. Notification shall be made to the parents or guardians as soon as possible.

F. Both the discharging and receiving facilities shall share responsibility for ensuring the interchange of medical and other programmatic information which shall include:

1. an updated active treatment plan;
2. appropriate transportation and care of the client during transfer; and
3. the transfer of personal effects and of information related to such items;

G. Representatives from the staff of both the sending and receiving facilities shall confer as often as necessary to share appropriate information regarding all aspects of the client's care and habilitation training. The transferring facility is responsible for developing a final summary of the client's developmental, behavioral, social, health, and nutritional status, and with the consent of the client and/or legal guardian, providing a copy to authorized persons and agencies.

H. The facility shall establish procedures for counseling clients or legal representatives, concerning the advantages and disadvantages of the possible release. This counseling shall include information regarding after care services available through agency and community resources.

I. All clients being transferred or discharged shall be given appropriate information about the new living arrangement. Counseling shall be provided if they are not in agreement. (See "Involuntary Transfers" if client is being transferred against his will).

J. The basic policy of client's right to the most appropriate placement which will meet his needs shall govern all transfer/discharge planning. Clients are not to be maintained

in inappropriate placements or replacements in which their needs cannot adequately be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:689 (April 1999).

§10333. Involuntary Transfer or Discharge

A. Conditions. Involuntary transfer or discharge of a client may occur only under the following conditions:

1. for medical reasons or for the welfare of other clients;
2. for nonpayment of a bill for care received;
3. for emergency situations such as fire, contagious disease, or a severe threat to client safety and well being.

B. Facility Responsibilities. Facility responsibilities when an involuntary transfer or discharge occurs shall include the following:

1. a written report detailing the circumstances leading up to the decision for involuntary discharge or transfer shall be placed in the client's clinical record;

2. interdisciplinary team conference shall be conducted with the client, family member or legal representative and appropriate agency representative to update the plan and develop discharge options that will provide reasonable assurances that clients will be transferred or discharged to a setting that can be expected to meet his needs;

3. a written notice of involuntary transfer shall be prepared; this notice shall be sent to the following individuals:

- a. client
- b. legal representative
- c. attending physician
- d. Office for Citizens with Developmental Disabilities
- e. DHH's Health Standards Section
- f. appropriate educational authorities
- g. representative of client's choice

4. time frames for written notice of involuntary transfer or discharge shall be:

a. at least 15 days before discharge or transfer in cases of nonpayment of bill for cost of care;

b. the written notice of transfer or discharge shall be given to appropriate individuals and agencies at least 72 hours prior to the final interdisciplinary team conference referred to in §10333.A.1 and 3;

c. as soon as possible before discharge or transfer in emergency situations as determined by the interdisciplinary team.

5. written notice of transfer or discharge shall contain the following information:

- a. the proposed date of transfer or discharge;
- b. the reason(s) for transfer or discharge;
- c. a date, time, and place for the follow-up interdisciplinary team conference to make final decision on the client's/legal representative choice of new facility or alternative living arrangement;
- d. names of facility personnel available to assist client and family in decision making and transfer arrangements;

e. explanation of client's right to have personal and/or third party representation at all stages of the transfer or discharge process;

f. explanation of client's right to register a complaint with DHH within three days after the follow-up interdisciplinary team conference.

6. at the final conference, the chief executive officer and/or social service staff shall meet with the client and legal representative within the 72-hour stated on the written notice time period or earlier.

7. the facility shall provide all services required prior to discharge that are contained in the final update of the Individual Habilitation Plan and in the transfer or discharge plan.

8. the facility shall be responsible for keeping the client, whenever medical or other conditions warrant such action, for as long as necessary even if beyond the proposed date of transfer or discharge, except in emergency situations.

9. the facility shall provide transportation to the new residence unless other arrangements are preferred by the client/legal representative or the receiving facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:689 (April 1999).

§10335. Mass Transfer of Clients

The following provisions shall apply to any mass transfer:

1. ICF/MR Decertification. When DHH/BHSF determines that an ICF/MR no longer meets state and federal Title XIX certification requirements, decertification action is taken. Usually an advance decertification date is set unless clients are in immediate danger.

2. ICF/MR Decertification Notice. On the date the ICF/MR is notified of its decertification, DHH shall begin notifying clients, families, responsible parties, and other appropriate agencies or individuals of the decertification action and of the services available to ensure an orderly transfer and continuity of care.

3. ICF/MR Closing or Withdrawing from Title XIX Program. In institutions where an ICF/MR either voluntarily or involuntarily discontinues its operations or participation in the Medical Assistance Program, clients, families, responsible parties, and other appropriate agencies or individuals shall be notified as far in advance of the effective date as possible to insure an orderly transfer and continuity of care.

a. If the ICF/MR is closing its operations, plans shall be made for transfer.

b. If the ICF/MR is voluntarily or involuntarily withdrawing from Title XIX participation, the client has the option of remaining in the ICF/MR on a private-pay basis.

4. Payment Limitation. Payments may continue for clients up to 30 days following the effective date of the ICF/MR's decertification.

a. There shall be NO payments approved for Title XIX clients admitted after an ICF/MR receives a notice of decertification.

b. The payment limitation also applies to Title XIX clients admitted prior to the decertification notice.

c. Payment is continued to the ICF/MR for clients certified prior to the decertification only if the ICF/MR totally cooperates in the orderly transfer of clients to other Title XIX facilities or other placements of their choice.

Note: The ICF/MR's failure to comply with the transfer team's requests may result in denial of reimbursement during the extension period.

Note: The ICF/MR still retains its usual responsibility during the transfer/discharge process to notify the BHSF Medicaid Eligibility Parish Office promptly of all changes in the client's status.

5. Client Rights. Nothing in the transfer or discharge plan shall interfere with client's exercise of his rights.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:690 (April 1999).

Subchapter E. Facility Records

§10337. General Requirements

Note: The federal regulations which pertain to this Section are 42 CFR 433 and 42 CFR 442.

A. The ICF/MR shall retain such records on file as required by DHH and shall have them available for inspection at request for three years from the date of service or until all audit exceptions are resolved, whichever period is longer.

B. Provider Agreement. The ICF/MR shall retain a copy of the Provider Agreement and any document pertaining to the licensing or certification of the ICF/MR.

C. Accounting Records

1. Accounting records must be maintained in accordance with generally accepted accounting principles as well as state and federal regulations. The accrual method of accounting is the only acceptable method for private providers.

Note: Purchase discounts, allowance and refunds will be recorded as a reduction of the cost to which they related.

2. Each facility must maintain all accounting records, books, invoices, canceled checks, payroll records, and other documents relative to client care costs for a period of three years or until all audit exceptions are resolved, whichever period is longer.

3. All fiscal and other records pertaining to client care costs shall be subject at all times to inspection and audit by DHH, the legislative auditor, and auditors of appropriate federal funding agencies.

D. Daily Census Records. Each facility must maintain statistical information related to the daily census and/or attendance records for all clients receiving care in the facility.

E. Employee Records

1. The ICF/MR shall retain written verification of hours worked by individual employees.

a. Records may be sign-in sheets or time cards, but shall indicate the date and hours worked.

b. Records shall include all employees even on a contractual or consultant basis.

2. Verification of criminal background check.

3. Verification of employee orientation and in-service training.

4. Verification of the employee's communicable disease screening.

F. Billing Records

1. The ICF/MR shall maintain billing records in accordance with recognized fiscal and accounting procedures. Individual records shall be maintained for each client. These records shall meet the following criteria.

- a. Records shall clearly detail each charge and each payment made on behalf of the client.
- b. Records shall be current and shall clearly reveal to whom charges were made and for whom payments were received.
- c. Records shall itemize each billing entry.
- d. Records shall show the amount of each payment received and the date received.

2. The ICF/MR shall maintain supporting fiscal documents and other records necessary to ensure that claims are made in accordance with federal and state requirements.

G. Client Records. See Subchapter C, Client Records.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:690 (April 1999).

Subchapter F. Health Services

§10339. Client Health and Habilitative Services

A. *Intermediate Care Facilities for the Mentally Retarded (ICF/MR)* are defined as intermediate care facilities whose primary purpose is to provide health or habilitative services for mentally retarded individuals or persons with related conditions and meet the standards in 42 CFR 442 and 483.400.

B. The following health and habilitative services must be provided to all clients.

1. Active Treatment Services. The facility must provide or arrange for each client to receive a continuous active treatment program consisting of needed interventions and services in sufficient number and frequency to support the achievement of the objectives identified in the Individual Habilitation Plan (IHP). These services include but are not limited to occupational, speech, physical and recreational therapies; psychological, psychiatric, audiology, social work, special education, dietary and rehabilitation counseling.

Note: Supplies, equipment, etc. needed to meet the goals of the IHP cannot be charged to the client or their responsible parties.

2. Active Treatment Components

a. Individual Habilitation Plan. Each client must have an Individual Habilitation Plan developed by an interdisciplinary team that represents the professions, disciplines or service areas that are relevant to identifying the client's needs as described by the programs that meet those needs.

i. The facility must document in the Individual Habilitation Plan (IHP) the presence, or the reason for absence, at the individual's staffing conference of the client, family members and relevant disciplines, professions or service areas as identified in the comprehensive functional assessment.

ii. Within 30 days after admission, the interdisciplinary team must do assessments or reassessments as needed to supplement the preliminary evaluation conducted prior to admission.

iii. The comprehensive functional assessment must take into consideration the client's age and the implications for active treatment at each stage as applicable. It must contain the following components:

- (a). the presenting problems and disabilities and where possible, their causes including diagnosis, symptoms, complaints and complications;
- (b). the client's specific developmental strengths;
- (c). the client's specific developmental and behavioral management needs;
- (d). an identification of the client's needs for services without regard to the actual availability of the services.

iv. The comprehensive functional assessment must cover the following developmental areas:

- (a). physical development and health;
- (b). nutritional status;
- (c). sensorimotor development;
- (d). affective development;
- (e). speech and language development;
- (f). auditory functioning;
- (g). cognitive development;
- (h). social development;
- (i). adaptive behaviors or independent living skills necessary for the client to be able to function in the community;
- (j). vocational skills as applicable;
- (k). psychological development.

b. Specific Objectives. Within 30 days after admission, the interdisciplinary team must prepare for each client an IHP that states specific objectives necessary to meet the client's needs, as identified by the comprehensive functional assessment, and states the plan for achieving these objectives.

- i. Components for these objectives must be:
 - (a). stated separately, in terms of a single behavioral outcome;
 - (b). be assigned projected completion dates;
 - (c). be expressed in behavioral terms that provide measurable indices of performance;
 - (d). be organized to reflect a developmental disability;
 - (e). be assigned priorities.

ii. A copy of each client's Individual Habilitation Plan must be made available to all relevant staff, including staff of other agencies who work with the client, the client, parents if the client is a minor, or legal guardian. The Individual's Habilitation Plan must be implemented within 14 calendar days of its development.

iii. The facility must develop and make available to relevant staff an active treatment schedule that outlines the current active treatment program.

iv. Each written training program designed to implement these objectives in the Individual Habilitation Plan must specify:

- (a). the methods to be used;
- (b). the schedule for use of the methods;
- (c). the person responsible for the program;
- (d). the type of data and frequency of data collection necessary to be able to assess progress toward the desired objectives;

(e). the inappropriate client behavior(s), if applicable; and

(f). a provision for the appropriate expression and the replacement of inappropriate behavior, if applicable, with behavior that is adaptive or appropriate.

v. The IHP must also:

(a). describe relevant interventions to support the individual toward independence;

(b). identify the location where program strategy information (which must be accessible to any person responsible for implementation) can be found;

(c). include, for those clients who lack them, training in personal skills essential for privacy and independence (including skills and activities of daily living) until it has been demonstrated that the client is developmentally incapable of applying them;

(d). plans for discharge.

vi. The IHP must identify mechanical supports, if needed, to achieve proper body position, balance, or alignment. This plan must specify:

(a). the reason for each support;

(b). the situation in which each is to be applied;

(c). a schedule for the use of each support.

vii. Clients who have multiple disabling conditions must be provided the opportunity to spend a major portion of each working day out of bed and outside the bedroom area, moving about by various methods and devices whenever possible.

viii. The IHP must include opportunities for client choice and self management.

c. Documentation. The facility must document data relevant to the accomplishment of the criteria specified in the client's Individual Habilitation Plan objectives. This data must meet certain criteria.

i. Data must be documented in measurable outcomes;

ii. Significant events related to the client's Individual Habilitation Plan and assessment and that contribute to an overall understanding of his ongoing level and quality of function must be documented;

iii. The Individual Habilitation Plan must be reviewed by a qualified mental retardation professional at least quarterly or as needed and revised as necessary, including but not limited to situations in which the client:

(a). has successfully completed an objective or objectives identified in the Individual Habilitation Plan;

(b). is regressing or losing skills;

(c). is failing to progress toward identified objectives after reasonable efforts have been made;

(d). is being considered for training toward new objectives.

iv. At least annually, the comprehensive assessment of each client must be reviewed by the interdisciplinary team

for relevancy and updated as needed. The Individual Habilitation Plan must be revised as needed or at least by the 365th day after the last review.

Note: For admission requirements, refer to §10301, Participation.

3. Health Services

a. Physician Services. The health care of each client shall be under the continuing supervision of a Louisiana licensed physician. The facility must ensure the availability of physician services 24 hours a day. The facility must provide or obtain preventive and general medical care plus annual physical examinations of each client.

i. The client, the family or the responsible party shall be allowed a choice of physicians.

ii. If the client does not have a personal physician, the ICF/MR shall provide referrals to physicians in the area, identifying physicians that participate in the Medicaid Program.

Note: The cost of physician services cannot be charged to the client or their responsible parties.

b. Nursing Services. The facility must provide each client nursing services as prescribed by a physician or as identified by the Individual Habilitation Plan and client needs.

Note: The cost for nursing services cannot be charged to the client or their legal representative.

i. Nursing services must include:

(a). the development, with a physician, of a medical care plan of treatment for a client when the physician has determined that an individual client requires such a plan;

(b). twenty-four-hour nursing service as indicated by the medical care plan or other nursing care as prescribed by the physician or as identified by client needs;

(c). review of individual client health status on a quarterly or more frequent basis;

(d). training clients and staff as needed in appropriate health and hygiene methods and self-administration of medications;

(e). notify the physician of any changes in the client's health status.

ii. If the facility utilizes only licensed practical nurses to provide health services, it must have a formal arrangement with a registered nurse licensed to practice in Louisiana to be available for verbal or on-site consultation to the licensed practical nurse.

c. Dental Services. The facility must provide or arrange for comprehensive diagnostic and treatment services for each client from qualified personnel, including licensed dentists and dental hygienists either through organized dental services in-house or through arrangement. The facility must ensure that dental treatment services include dental care needed for relief of pain and infections, restoration of teeth and maintenance of dental health. The facility must ensure the availability of emergency treatment on a 24-hour per day basis by a licensed dentist.

Note: The cost for these dental services cannot be charged to the client or their responsible party.

d. Pharmaceutical Services. The facility must provide or arrange for the provision of routine and emergency drugs and biologicals to its clients. Drugs and biologicals may be obtained from community or contract pharmacists or the facility may maintain a licensed pharmacy.

i. Routine administration of medications shall be done at the facility where the client resides. Clients may not be transported elsewhere for the sole purpose of medication administration.

ii. The ICF/MR shall neither expect, nor require, any provider to give a discount or rebate for prescription services rendered by the pharmacists.

iii. The ICF/MR shall order at least a one month supply of medications from a pharmacy of the client's, family's, or responsible party's choice. Less than a month's supply is ordered only when the attending physician specifies that a smaller quantity of medication is necessary for a special medical reason.

iv. The ICF/MR Chief Executive Officer or the authorized representative shall certify receipt of prescribed medications by signing and dating the pharmacy billing.

Note: The costs for drugs and biologicals cannot be charged to the client, family or responsible party including any additional charges for the use of the unit dose or blister pack system of packing and storing medications.

v. Aids and Equipment. The facility must furnish, maintain in good repair, and teach clients to use and to make informed choices about the use of dentures, eyeglasses, hearing and other communication aids, braces, and other devices identified by the interdisciplinary team as needed by the client.

Note: The costs for aids and equipment cannot be charged to the clients or their legal representatives.

e. Nutritional Services. The facility must provide a nourishing, well-balanced diet for each client, including modified and specially prescribed diets. The nutritional component must be under the guidance of a licensed dietitian.

Note: Nutritional services are included in the per diem rate. Residents of ICF/MR facilities are not eligible for Food Stamps, Commodities, or other subsidized food programs.

f. Clothing. The facility should provide adequate seasonal clothing for the client. *Adequate* is defined as a seven-day supply in good repair and properly fitting. Work uniforms or special clothing/equipment for training will be provided in addition to the seven-day supply.

i. The facility must maintain a current clothing inventory for each client.

ii. A client with adequate clothing may purchase additional clothing using his/her personal funds if he/she desires.

iii. If a client desires to purchase a certain brand, the client has the right to use his/her personal funds in this manner; however, the client must be made aware of what the facility is providing prior to making his/her decision.

Note: For more information on services that must be provided by the ICF/MR facility or may be purchased by the client, see §10307, Payment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:691 (April 1999).

§10341. Client Behavior

Note: The federal regulations pertaining to this Section are 42 CFR 483.420, 483.440, and 483.450. The state laws pertaining to this Section are R.S. 40:2009.2-RS. 40:2009.20 and R.S. 403.2.

A. Written Policies and Procedures

1. A facility must develop and implement written policies and procedures for the management of conduct between staff and clients. These policies and procedures will:

a. specify conduct to be allowed and not allowed by staff and/or clients;

b. provide for client choice and self determination to the extent possible;

c. be readily available to all clients, parent(s), staff, and legal guardians;

d. be developed with the participation of clients to the extent possible.

2. A facility must develop and implement written policies and procedures for the management of inappropriate client behavior. These policies and procedures must:

a. specify all facility approved interventions to manage inappropriate client behavior;

b. designate these interventions on a hierarchy ranging from the most positive and least restrictive to the least positive and most restrictive;

c. insure that, prior to the use of more restrictive techniques, the client's record document that programs incorporating the use of less intrusive or more positive techniques have been tried first and found to be ineffective;

d. address the use of:

i. time-out rooms;

ii. physical restraints;

iii. drugs used to manage inappropriate behavior;

iv. application of painful or noxious stimuli;

v. the staff members who may authorize use of a particular intervention;

vi. a mechanism for monitoring and controlling use of the intervention.

B. Interventions to Manage Inappropriate Client Behavior

1. Safety and Supervision. Interventions to manage inappropriate client behavior must be used within sufficient safeguards and supervision to insure that the safety, welfare, and civil and human rights of clients are adequately protected. These interventions must:

a. never be used for disciplinary purposes, for the convenience of staff, or as a substitute for an active treatment program;

b. never include corporal punishment;

c. never include discipline of one client by another except as part of an organized system of self government as set forth in facility policy.

2. Individual Plans and Approval. Individual programs to manage inappropriate client behavior must be incorporated into the client's individual program plan and must be reviewed, approved, and monitored by the Specially Constituted Committee. Written informed consent by the client or legal representative is required prior to implementation of a behavior management plan involving any risks to client's rights. (See §10343, Client Rights, which addresses informed consent.)

3. Standing Programs. Standing or as needed programs to control inappropriate behavior are not permitted. To send a client to his room when his behavior becomes inappropriate

is not acceptable unless part of a systematic program of behavioral interventions for the individual client.

4. Time-out Rooms

a. Use of time-out rooms is not permitted in group or community homes.

b. In institutional settings, it is permitted only when professional staff is on-site and only under the following conditions:

i. the placement in a time-out room is part of an approved systematic behavior program as required in the individual program to manage inappropriate behavior discussed under Subsection B above; emergency placement is not allowed;

ii. the client is under direct constant visual supervision of designated staff;

iii. if the door to the room is closed, it must be held shut only by use of constant physical pressure from a staff member;

iv. placement in time-out room does not exceed one hour;

v. clients are protected from hazardous conditions while in time-out rooms;

vi. a record is kept of time-out activities.

5. Physical Restraint. *Physical restraint* is defined as any manual method or physical or mechanical device that the individual cannot remove easily and which restricts free movement. Examples of manual methods include: therapeutic or basket holds and prone or supine containment. Examples of physical or mechanical devices include: barred enclosure which must be no more than 3 feet in height and must be; chair with a lap tray used to keep an ambulatory client seated; wheelchair tied to prevent movement of a wheelchair mobile client; straps used to prevent movement while client is in chair or bed. Physical restraints can be used only:

a. when absolutely necessary to protect the client from injuring himself or others in an emergency situation;

b. when part of an individual program plan intended to lead to less restrictive means of managing the behavior the restraints are being used to control;

c. as a health related protection prescribed by a physician but only if absolutely necessary during a specific medical, dental, or surgical procedure or while a medical condition exists;

d. when the following conditions are met:

i. orders for restraints are not obtained for use on a standing or on an as needed basis;

ii. restraint authorizations are not in effect longer than 12 consecutive hours and are obtained as soon as possible after restraint has occurred in emergency situations;

iii. clients in restraints are checked at least every 30 minutes and released as quickly as possible. Record of restraint checks and usage is required;

iv. restraints are designed and used so as not to cause physical injury and so as to cause the least possible discomfort;

v. opportunities for motion and exercise are provided for not less than 10 minutes during each two-hour period and a record is kept; and

vi. restraints are applied only by staff who have had training in the use of these interventions.

6. Drugs. Drugs used for control of inappropriate behavior may be used only under the following conditions:

a. drugs must be used only in doses that do not interfere with the client's daily living activities;

b. drugs used for control of inappropriate behavior must be approved by the interdisciplinary team, the client, legal representative, and specially constituted committee. These drugs must be used only as part of the client's individual program plan that is directed toward eliminating the behavior the drugs are thought to control;

c. prior to the use of any program involving a risk to client protection and rights, including the use of drugs to manage inappropriate behavior, written informed consent must be obtained from:

i. client; or

ii. family, legal representative, or advocate if client is a minor or client is mentally unable to understand the intended program or treatment.

d. informed consent consists of permission given voluntarily on a time limited basis not to exceed 365 days by the client or the legally appropriate party after having been informed of the:

i. specific issue treatment or procedure;

ii. client's specific status with regard to the issue;

iii. attendant risks regarding the issue;

iv. acceptable alternatives to the issue;

v. right to refuse;

vi. consequences of refusal.

e. drugs must not be used until it can be justified that the beneficial effects of the drug on the client's behavior clearly outweighs the potentially harmful effects of the drug;

f. drugs must be clearly monitored in conjunction with the physician, the pharmacist, and facility staff;

g. unless clinical evidence justifies that this is contraindicated, drugs for control of inappropriate behavior must be gradually reduced at least annually in a carefully monitored program conducted in conjunction with the interdisciplinary team.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:693 (April 1999).

§10343. Client Rights

Note: Code of Federal Regulations pertaining to this Section are as follows: 42 CFR 483.420 and 483.410 (1), (2), (3). Federal laws pertaining to this Section are as follows: Section 601 of Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; and Age Discrimination Act of 1975. The state law pertaining to this Section is R.S. 28.390 Rights Law.

A. Written Policies. The ICF/MR will establish written policies that safeguard clients' rights and define their responsibilities. The ICF/MR chief executive officer and ICF/MR staff will be trained in and will adhere to client rights policies and procedures. ICF/MR personnel will protect and promote clients' civil rights and rights to a dignified existence, self-determination, communication with and access to persons

and services inside and outside the facility and to exercise their legal rights. The chief executive officer will be responsible for staff compliance with client rights policies.

B. Notification of Rights

1. All clients, families, and/or responsible parties will sign a statement that they have been fully informed verbally and in writing of the following information at the time of admission and when changes occur during the client's stay in the facility:

- a. the facility's rules and regulations;
- b. their rights;
- c. their responsibilities to obey all reasonable rules and regulations and respect the personal rights and private property of clients; and
- d. rules for conduct at the time of their admissions and subsequent changes during their stay in the facility.

2. Changes in client right policies will be conveyed both verbally and in writing to each client, family, and/or responsible party at the time of or before the change.

3. Receipt of the change will be acknowledged in writing by each client who is capable of doing so, family, and/or responsible party.

4. A client's written acknowledgment will be witnessed by a third person.

5. Each client must be fully informed in writing of all services available in the ICF/MR and of the charges for these services including any charges for services not paid for by Medicaid or not included in the facility's basic rate per day charges. The facility must provide this information either before or at the time of admission and on a continuing basis as changes occur in services or charges during the client's stay.

C. Civil Rights Act of 1964 (Title VI). Title VI of the Civil Rights Act of 1964 states the following: "No persons in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." The facility will meet the following criteria in regards to the above-mentioned Act.

1. Compliance. The facility will be in compliance with Title VI of the Civil Rights Act of 1964 and will not discriminate, separate, or make any distinction in housing, services, or activities based on race, color, or national origin.

2. Written Policies. The facility will adopt and implement written policies for compliance with the Civil Rights Act. All employees and contract service providers who provide services to clients will be notified in writing of the Civil Rights policy.

3. Community Notification. The facility will notify the community that admission to the ICF/MR, services to clients, and other activities are provided without regard to race, color, or national origin.

a. Notice to the community may be given by letters to and meetings with physicians, local health and welfare agencies, paramedical personnel, and public and private organizations having interest in equal opportunity.

b. Notices published in newspapers and signs posted in the facility may also be used to inform the public.

4. Housing. All clients will be housed without regard to race, color, or national origin.

a. ICF/MRs will not have dual accommodations to effect racial segregation.

b. Biracial occupancy of rooms on a nondiscriminatory basis will be required. There will be a policy prohibiting assignment of rooms by race.

c. Clients will not be asked if they are willing to share a room with a person of another race, color, or national origin.

d. Client transfer will not be used to evade compliance with Title VI of the Civil Rights Act of 1964.

5. Open Admission Policy. An open admission policy and desegregation of ICF/MR will be required, particularly when the facility previously excluded or primarily serviced clients of a particular race, color, or national origin. Facilities that exclusively serve clients of one race have the responsibility for taking corrective action, unless documentation is provided that this pattern has not resulted from discriminatory practices.

6. Client Services. All clients will be provided medical, non-medical, and volunteer services without regard to race, color, or national origin. All administrative, medical and non-medical services are covered by this requirement.

7. All ICF/MR staff will be permitted to provide client services without regard to race, color, or national origin.

a. Medical, paramedical, or the professional persons, whether engaged in contractual or consultative capacities, will be selected and employed in a nondiscriminatory manner.

b. Opportunity for employment will not be denied to qualified persons on the basis of race color, or national origin.

c. Dismissal from employment will not be based upon race, color, or national origin.

D. Section 504 of the Rehabilitation Act of 1973. Facilities will comply with Section 504 of the Rehabilitation Act of 1973 that states: "No qualified person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance."

E. Age Discrimination Act of 1975. This Act prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance. All ICF/MRs must be in compliance with this Act.

F. Americans with Disabilities Act of 1990. All ICF/MR facilities must be in compliance with this Act.

G. Client Rights. The facility must comply with 42 CFR 483.420 and the provisions below.

1. Each client must:

a. be fully informed by a physician of his health and medical condition unless the physician decides that informing the client is medically contraindicated;

b. be given the opportunity to participate in planning his total care and medical treatment;

c. be given the opportunity to refuse treatment; and

d. give informed, written consent before participating in experimental research.

2. If the physician decides that informing the client of his health and medical condition is medically contraindicated, he must document this decision in the client's record.

3. Each client must be transferred or discharged only in accordance with the discharge plans in the IHP (see §10339, Client Health and Habilitation).

4. Each client must be:

- a. encouraged and assisted to exercise his rights as a client of the facility and as a citizen; and
- b. allowed to submit complaints or recommendations concerning the policies and services of the ICF/MR to staff or to outside representatives of the client's choice or both, free from restraining, interference, coercion, discrimination, or reprisal. This includes the right to due process.

5. Each client must be allowed to manage his personal financial affairs and taught to do so to the extent of individual capability. If a client requested assistance from the facility in managing his personal financial affairs:

- a. the request must be in writing; and
- b. the facility must comply with the record keeping requirements of Subchapter C, Client Records and Subchapter E, Facility Records.

6. Freedom from Abuse and Restraints

- a. Each client must be free from physical, verbal, sexual or psychological abuse or punishment.
- b. Each client must be free from chemical and physical restraints unless the restraints are used in accordance with §10339, Client Health and Habilitation.

7. Privacy

- a. Each client must be treated with consideration, respect, and full recognition of his dignity and individuality.
- b. Each client must be given privacy during treatment and care of personal needs.
- c. Each client's records, including information in an automatic data base, must be treated confidentially.
- d. Each client must give written consent before the facility may release information from his record to someone not otherwise authorized by law to receive it.
- e. A married client must be given privacy during visits by his spouse.

Note: If both husband and wife are residents of the facility, they must be permitted to share a room.

8. No client may be required to perform services for the facility. Those clients who by choice work for the facility must be compensated for their efforts at prevailing wages and commensurate with their abilities.

9. Each client must be allowed to:

- a. communicate, associate, and meet privately with individuals of his choice, unless this infringes on the rights of another client;
- b. send and receive personal mail unopened; and
- c. have access to telephones with privacy for incoming and outgoing local and long distance calls except as contraindicated by factors identified within his individual program plan.

10. Each client must be allowed to participate in social, religious, and community group activities.

11. Each client must be allowed to retain and use his personal possessions and clothing as space permits.

12. Each client may be allowed burial insurance policy(s). The facility administrator or designee, with the client's permission, may assist the resident in acquiring a burial policy, provided that the administrator, designee, or affiliated persons

derive no financial or other benefit from the resident's acquisition of the policy.

H. Violation of Rights. A person who submits or reports a complaint concerning a suspected violation of a client's rights or concerning services or conditions in an ICF/MR or who testifies in any administrative or judicial proceedings arising from such complaints will have immunity from any criminal or civil liability therefore, unless that person has acted in bad faith with malicious purpose, or if the court finds that there was an absence of a justifiable issue of either law or fact by the complaining party.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:694 (April 1999).

§10345. Complaints

A. Purpose and Scope. Under the provisions of Louisiana R.S. 40:2009.13-40:2009.20 and 14:4032 federal regulation 42 CFR 483.405, 483.420, 483.440 and the state Operations Manual published by the Department of Health and Hospitals and Health Care Financing Administration, the following procedures are established for receiving, evaluating, investigating, and correcting grievances concerning client care in ICF/MR licensed and certified ICF/MR facilities. The following procedures also provide mandatory reporting of abuse and neglect in ICF/MR facilities.

B. Applicability

1. Any person having knowledge of the alleged abuse or neglect of a client or knowledge of a client being denied care and treatment may submit a complaint, preferably in writing.

2. Any person may submit a complaint if he/she has knowledge that a state law, standard, rule, regulation, correction order, or certification rule issued by the Department of Health and Hospitals has been violated.

C. Duty to Report. All incidents or allegations of abuse and/or neglect must be reported by telephone or FAX within 24 hours to DHH's Health Standards Section. This must be followed by a copy of the results of the facility's internal investigation within five working days. Complete investigative reports with all pertinent documents shall be maintained at the facility. Failure to submit this information timely could result in a deficiency and/or a sanction. Those who must make a report abuse and/or neglect are:

1. physicians or other allied health professionals;
2. social services personnel;
3. facility administration;
4. psychological or psychiatric treatment personnel;
5. registered nurses;
6. licensed practical nurses; and
7. direct care staff.

D. Penalties for Failure to Make Complaint. Any person who knowingly and willfully fails to report an abuse or neglect situation shall be fined not more than \$500 or imprisoned not more than two months or both. The same sanctions shall apply to an individual who knowingly and willingly files a false report. Penalties for committing cruelty or negligent

mistreatment to a resident of a health care facility shall be not more than \$10,000 or imprisoning with or without hard labor for more than 10 years, or both.

E. Where to Submit Complaint

1. A complaint can be filed as follows:

a. it may be submitted in writing to the Health Standards Section at Box 3767, Baton Rouge, LA 70821-3767; or

b. it may be made by calling Health Standards Section at 1-888-810-1819, or (225) 342-0082, and the FAX number (225) 342-5292.

c. In addition, it may be submitted to any local law enforcement agency.

2. DHH'S Referral of Complaints for Investigation

a. Complaints involving clients of ICF/MRs received by DHH shall be referred to the Health Standards Section.

b. If it has been determined that complaints involving alleged violations of any criminal law concerning a facility are valid, the investigating office of DHH shall furnish copies of the complaints for further investigation to the Medicaid Fraud Control Unit of the Louisiana Attorney General Office.

F. Disposition of Complaints. After the investigation DHH may take any of the following actions.

1. Valid Complaint with Deficiencies Written. The Department of Health and Hospitals shall notify the administrator who must provide an acceptable plan of correction as specified below.

a. If it is determined that a situation presents a threat to the health and safety of the client, the facility shall be required to take immediate corrective action. DHH may certify noncompliance, revoke or suspend the license, or impose sanctions.

b. In all other instances of violation, an expeditious correction, not to exceed 90 days, shall be required. If the provider is unable or unwilling to correct the violation, DHH may take any of the actions listed in Paragraph 1.a.

c. In cases of abuse and/or neglect, referral for appropriate corrective action shall be made to the Medicaid Fraud Control Unit of the Attorney General's Office.

2. Unsubstantiated Complaint. DHH shall notify the complainant and the facility of this finding.

3. Repeat Violations. When violations continue to exist after the corrective action was taken, the Department of Health and Hospitals may take any of the actions listed in Paragraph 1.a.

G. Informal Reconsideration. A complainant or a facility dissatisfied with any action taken by DHH's response to the complaint investigation may request an informal reconsideration as provided in R.S. 40:2009.11 et seq.

H. Retaliation by ICF/MR Facility. Facilities are prohibited from taking retaliatory action against complainants. Persons aware of retaliatory action or threats in this regard should contact DHH.

I. Tracking of Incidents. For each client who is involved in an accident or incident, an incident report shall be completed including the name, date, time, details of accident or incident, circumstances under which it occurred, witnesses and action taken.

1. Incidents or accidents involving clients must be documented in the client's record. These records should also contain all pertinent medical information.

2. The examples listed below are not all inclusive, but are presented to serve as a guideline to assist those facility employees responsible for reporting incident reports.

a. Suspicious Death. Death of a client or on-duty employee when there is suspicion of death other than by natural causes.

b. Abuse and/or Neglect. All incidents or allegations of abuse and/or neglect.

c. Runaways. Runaways considered to be dangerous to self or others.

d. Law Enforcement Involvement. Arrest, incarceration, or other serious involvement of residents with Law Enforcement Authorities.

e. Mass Transfer. The voluntary closing of a facility or involuntary mass transfer of residents from a facility.

f. Violence. Riot or other extreme violence.

g. Disasters. Explosions, bombings, serious fires.

h. Accidents/Injuries. Severe accidents or serious injury involving residents or on-duty employees caused by residents such as life threatening or possible permanent and/or causing lasting damage.

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HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:696 (April 1999).

Subchapter G. Admission Review

§10347. The Admission Process

Note: Federal regulations pertaining to this Section are 42 CFR 456.350-456.438. ICF/MRs will be subject to a review of each client's need for ICF/MR services.

A. Interdisciplinary Team (ID Team). Before admission to an ICF/MR, or before authorization for payment, an interdisciplinary team of health professionals will make a comprehensive medical, social and psychological evaluation of each client's need for care in the ICF/MR.

1. Other professionals as appropriate will be included on the team, and at least one member will meet the definition of Qualified Mental Retardation Professional (QMRP) as stated in these standards.

2. Appropriate participation of nursing services on this team should be represented by a Louisiana licensed nurse.

B. Exploration of Alternative Services. If the comprehensive evaluations recommend ICF/MR services for a client whose needs could be met by alternative services that are currently unavailable, the ICF/MR will enter this fact in the client's record and begin to look for alternative services.

C. ICF/MR Submission of Data

1. Evaluative data for medical certification for ICF/MR level of care will be submitted to the appropriate Regional Health Standards Office on each client. This will include the following information:

a. initial application;

b. applications for clients transferring from one ICF/MR to another;

- c. applications for clients transferring from an acute care hospital to an ICF/MR;
- d. applications for clients who are patients in a mental health facility; and
- e. applications for clients already in an ICF/MR program.

2. Time Frames for Submission of Data. A complete packet of admission information must be received by BHSF/HSS within 20 working days following the completion of the ISP for newly admitted clients.

- a. Notice within the 20-day time frame will also be required for readmissions and transfers.
- b. If an incomplete packet is received, denial of certification will be issued with the reasons(s) for denial.
- c. If additional information is subsequently received within the initial 20-working-day time frame, and the client meets all requirements, the effective date of certification is the date of admission.
- d. If the additional information is received after the initial 20-working-day time frame and the client meets all requirements, the effective date of is no earlier than the date a completed packet is received by HSS.

3. Data may be submitted before admission of the client if all other conditions for the admission are met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:697 (April 1999).

§10349. Requirements for Certification

The following documentation and procedures are required to obtain medical certification for ICF/MR Medicaid vendor payment. The documentation should be submitted to the appropriate HSS Regional Office.

1. Social evaluation:
 - a. must not be completed more than 90 days prior to admission and no later than date of admission; and
 - b. must address the following:
 - i. family, educational and social history including any previous placements;
 - ii. treatment history that discusses past and current interventions, treatment effectiveness, and encountered negative side effects;
 - iii. current living arrangements;
 - iv. family involvement, if any;
 - v. availability and utilization of community, educational, and other sources of support;
 - vi. habilitation needs;
 - vii. family and/or client expectations for services;
 - viii. prognosis for independent living; and
 - ix. social needs and recommendation for ICF/MR placement.
2. Psychological evaluation:
 - a. must not be completed more than 90 days prior to admission and no later than the date of admission; and
 - b. must include the following components:
 - i. comprehensive measurement of intellectual functioning;

- ii. a developmental and psychological history and assessment of current psychological functioning;
- iii. measurement of adaptive behavior using multiple informants when possible;
- iv. statements regarding the reliability and validity of informant data including discussion of potential informant bias;
- v. detailed description of adaptive behavior strengths and functional impairments in self-care, language, learning, mobility, self-direction, and capacity for independent living;
- vi. discussion of whether impairments are due to a lack of skills or noncompliance and whether reasonable learning opportunities for skill acquisition have been provided; and
- vii. recommendations for least restrictive treatment alternative, habilitation and custodial needs and needs for supervision and monitoring to ensure safety.

3. A psychiatric evaluation must be completed if the client has a primary or secondary diagnosis of mental illness, is receiving psychotropic medication, has been hospitalized in the past three years for psychiatric problems, or if significant psychiatric symptoms were noted in the psychological evaluation or social assessment. The psychiatric evaluation:

- a. shall not be completed more than 90 days prior to admission and no later than the date of admission;
- b. should include a history of present illness, mental status exam, diagnostic impression, assessment of strengths and weaknesses, recommendations for therapeutic interventions, and prognosis; and
- c. may be requested at the discretion of HSS to determine the appropriateness of placement if admission material indicates the possible need for psychiatric intervention due to behavior problems.

4. Physical, occupational, or speech therapy evaluation(s) may be requested when the client receives services or is in need of services in these areas.

5. An Individual Service Plan (ISP) developed by the interdisciplinary team, completed within 30 days of admission that describes and documents the following:

- a. habilitation needs;
- b. specific objectives that are based on assessment data;
- c. specific services, accommodations, and/or equipment needed to augment other sources of support to facilitate placement in the ICF/MR; and
- d. participation by the client, the parent(s) if the client is a minor, or the client's legal guardian unless participation is not possible or inappropriate.

Note: Document the reason(s) for ANY non-participation by the client, the client's parent(s), or the client's legal guardian.

6. Form 90-L (Request for Level of Care Determination) must be submitted on each admission or readmission. This form must:

- a. not be completed more than 30 days before admission and not later than the date of admission;
- b. be completed fully and include prior living arrangements and previous institutional care;
- c. be signed and dated by a physician licensed to practice in Louisiana. Certification will not be effective any

earlier than the date the Form 90-L is signed and dated by the physician;

d. indicate the ICF/MR level of care; and
e. include a diagnosis of mental retardation/developmental disability or related condition as well as any other medical condition.

7. Form 148 (Notification of Admission or Change):

a. must be submitted for each new admission to the ICF/MR;

b. must be submitted when there is a change in a client's status: death, discharge, transfer, readmission from a hospital;

c. for clients' whose application for Medicaid is later than date of admission, the date of application must be indicated on the form.

8. Transfer of a Client

a. Transfer of a Client Within an Organization

i. Form 148 must be submitted by both the discharging facility and the admitting facility. It should indicate the date the client was discharged from the transferring facility plus the name of the receiving facility and the date admitted.

ii. An updated individual service plan must be submitted from the discharging facility to the receiving facility. The previous plan can be used but must show any necessary revisions that the receiving facility ID team feel are appropriate and/or necessary.

iii. The receiving facility must submit minutes of an ID team meeting addressing the reason(s) for the transfer, the family and client's response to the move, and the signatures of the persons attending the meeting.

b. Transfer of a Client Not Within the Same Organization. Certification requirements involving the transfer of a client from one ICF/MR facility to another not within the same organization or network will be the same as for a new admission.

i. The discharging facility will notify HSS of the discharge by submitting Form 148 giving the date of discharge and destination.

ii. The receiving facility must follow all steps for a new admission.

9. Readmission of a Client Following Hospitalization

a. Form 148 must be submitted showing the date Medicaid billing was discontinued and the date of readmission to the facility.

b. Documentation must be submitted that specifies the client's diagnosis, medication regime, and includes the physician's signature and date. The documentation can be:

- i. Form 90-L;
- ii. hospital transfer form;
- iii. hospital discharge summary; or
- iv. physician's orders.

c. An updated ISP must be submitted showing changes, if any, as a result of the hospitalization.

10. Readmission of a Client Following Exhausted Home Leave Days

a. Form 148 must be submitted showing the date billing was discontinued and the date of readmission.

b. An updated ISP must be submitted showing changes, if any, as a result of the extended home leave.

11. Transfer of a Client From an ICF/MR Facility to a Nursing Facility. When a client's medical condition has deteriorated to the extent that they cannot participate in or benefit from active treatment and require 24-hour nursing care, the ICF/MR may request prior approval from HSS to transfer the client to a nursing facility by submitting the following information:

a. Form 148 showing that transfer to a nursing facility is being requested;

b. Form 90-L completed within 30 days prior to request for transfer indicating that nursing facility level of care is needed;

c. Level 1 PASARR completed within 30 days prior to request for transfer;

d. ID team meeting minutes addressing the reason for the transfer, the family and client's response to the move, and the signatures of the persons attending the meeting; and

e. any other medical information that will support the need for nursing facility placement.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:698 (April 1999).

§10351. Audits

Note: The federal regulation which pertains to this Section is 42 CFR 447.202.

A. Each ICF/MR shall file an annual facility cost report, central office cost report, and cost report of cost for services provided to each residents eligible for extraordinary rate.

B. ICF/MRs shall be subject to financial and compliance audits.

C. All providers who elect to participate in the Medicaid Program shall be subject to audit by State or Federal regulators or their designees. Audit selection for the Department shall be at the discretion of DHH.

1. A representative sample of ICF/MR providers shall be fully audited to ensure the fiscal integrity of the program and compliance of providers with program regulations governing reimbursement.

2. Limited scope and exception audits shall also be conducted as determined by DHH or its designee.

3. DHH conducts desk reviews of all the cost reports received. DHH or its designee also conducts on-site audits of provider records and cost reports.

a. DHH or its designee seeks to maximize the number of on-site audited cost reports available for use in its cost projections although the number of on-site audits performed each year may vary.

b. Whenever possible, the records necessary to verify information submitted to DHH on Medicaid cost reports, including related-party transactions and other business activities engaged in by the provider, must be accessible to DHH or its designee audit staff in the state of Louisiana.

D. Cost of Out-of-State Audits

1. When records are not available to DHH audit staff within Louisiana, the provider must pay the actual costs for DHH or its designee staff to travel and review the records out-of-state.

2. If a provider fails to reimburse DHH for these costs within 60 days of the request for payment, DHH may place a hold on the vendor payments until the costs are paid in full.

E. In addition to the exclusions and adjustments made during desk reviews and on-site audits, DHH may exclude or adjust certain expenses in the cost-report data base in order to base rates on the reasonable and necessary costs that an economical and efficient provider must incur.

F. The facility shall retain such records or files as required by DHH's BHSF and shall have them available for inspection for three years from the date of service or until all audit exceptions are resolved, whichever period is longer.

G. If DHH's or its designee auditors determine that a facility's records are unauditible, the vendor payments may be withheld until the facility submits an acceptable plan of correction to reconstruct the records. Any additional costs incurred to complete the audit shall be paid by the provider. (Refer to §10357, Sanctions, regarding applicable sanctions.)

H. If a facility fails to submit corrective action plans in response to financial and compliance audit findings within 15 days after receiving the notification letter, vendor payment may be withheld. (Refer to §10357, Sanctions, for more information.)

I. If a facility fails to respond satisfactorily to DHH's request for information within 15 days after receiving the department's letter, vendor payment may be withheld. (Refer to §10357, Sanctions, for more information.)

J. If DHH's or its designee audit of the residents' Personal Funds Account indicates a material number of transactions were not sufficiently supported or material noncompliance, then DHH shall initiate a full scope audit of the account. The cost of the full scope audit shall be withheld from the vendor payments. (Refer to §10357, Sanctions and §10355, Appeals, for more information.)

K. The ICF/MR shall cooperate with the audit process by:

1. promptly providing all documents needed for review;
2. providing adequate space for uninterrupted review of records;
3. making persons responsible for facility records and cost report preparation available during the audit;
4. arranging for all pertinent personnel to attend the exit conference;
5. insuring that complete information is maintained in client's records; and
6. correcting areas of noncompliance with state and federal regulations immediately after the exit conference time limit of fifteen (15) days.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:699 (April 1999).

§10353. Utilization Reviews

Note: Federal regulations pertaining to ICFs are found at 42 CFR 456.350 through 456.438.

A. If it is determined by HSS that continued stay is not needed, the client's attending physician or Qualified Mental Retardation Professional (QMRP) shall be notified within one working day and given two working days from the notification date to present his/her views before a final decision on continued stay is made.

B. If the attending physician or QMRP does not present additional information or clarification of the need for continued stay, the decision of the UR group is final.

C. If the attending physician or QMRP presents additional information or clarification, the need for continued stay is reviewed by the physician member(s) of the UR group in cases involving a medical determination.

D. The decision of the UR group is the final medical eligibility decision. Recourse for the client is to exercise his/her appeal rights according to the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:700 (April 1999).

§10355. Appeals

Note: Code of Federal Regulations that pertain to this Section are as follows: 42 CFR 431.151 through 431.154.

A. DHH reserves the right to reject a request for Title XIX participation, impose sanctions or terminate participation status when an ICF/MR:

1. fails to abide by the rules and regulations promulgated by DHH;
2. fails to obtain compliance or is otherwise not in compliance with Title VI of the Civil Rights Act;
3. engages in practice not in the best interest of Medicaid (Title XIX) clients;
4. has previously been sanctioned for violation of state and/or federal rules and regulations; or
5. has previously been decertified from participation as a Title XIX provider. Prior to such rejection or termination, DHH may conduct an Informal Reconsideration at the ICF/MR's request. The ICF/MR also has the right to an Administrative Appeal pursuant to the Administrative Procedure Act.

B. Informal Reconsideration. When an ICF/MR receives a written notification of adverse action and a copy of the findings upon which the decision was based, the ICF/MR may provide written notification to BHSF/HSS within 10 calendar days of receiving the notification, and request an Informal Reconsideration.

1. The ICF/MR may submit written documentation or request an opportunity to present oral testimony to refute the findings of DHH on which the adverse action is based.

2. DHH will review all oral testimony and documents presented by the ICF/MR and, after the conclusion of the Informal Reconsideration, will advise the ICF/MR in writing of the results of the reconsideration which may be that:

- a. the original decision has been upheld;
- b. the original decision has been modified; or
- c. the original decision has been reversed.

C. Evidentiary Hearing—General Requirements. The ICF/MR may also request an Administrative Appeal. To request such an appeal, the facility must submit their request in writing within 30 days of the receipt of the adverse action to the Bureau of Appeals, Box 4183, Baton Rouge, LA 70821-4183. The Bureau of Appeals will attempt to conduct the hearing within 120 days of the original notice of adverse action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:700 (April 1999).

§10357. Sanctions

A. Noncompliance. When ICF/MRs are not in compliance with the requirements set forth in the ICF/MR Standards for Payment, DHH may impose sanctions. Sanctions may involve:

1. withholding of vendor payments;
2. civil fines;
3. denial of payments for new admissions; or
4. nonfinancial measures such as termination of the ICF/MR's certification as a Title XIX provider.

B. Authority. Public Law 95-142, dated October 25, 1977, permits the federal government's Health Care Financing Administration (HCFA) to impose a fine and/or imprisonment of facility personnel for illegal admittance and retention practices. HCFA is also authorized to terminate an agreement with a Title XIX ICF/MR provider as a result of deficiencies found during their surveys, which are re-reviews of the state's surveys. Furthermore, the federal government's Office of Inspector General (OIG) is authorized to terminate an agreement with a Title XIX ICF/MR provider for willful misrepresentation of financial facts or for not meeting professionally recognized standards of health care.

C. Special Staffing Requirements. When the secretary of DHH determines that additional staffing or staff with specific qualifications would be beneficial in correcting deficient practices, DHH may require a facility to hire additional staff on a full-time or consultant basis until the deficient practices have been corrected. This provision may be invoked in concert with, or instead of, the sanctions cited below.

D. Withholding of Vendor Payments. DHH may withhold vendor payments in whole or in part in the following situations, which are not all inclusive.

1. Delinquent Staffing Report. When the ICF/MR provider fails to timely submit a required, completed staffing report. After DHH notifies the provider of the delinquent report, vendor payment may be withheld until the completed report is received.

2. Unapproved Staffing Shortage. When a staffing report indicates an unapproved staffing shortage, vendor payment may be withheld until staffing is brought into compliance.

3. Incorrect/Inappropriate Charges. When DHH determines that the ICF/MR provider has incorrectly or

inappropriately charged clients, families, or responsible parties, or there has been misapplication of client funds, vendor payment may be withheld until the provider does the following:

- a. makes restitution; and
- b. submits documentation of such restitution to BHSF's Institutional Reimbursement Section.

4. Delinquent Cost Report. When an ICF/MR provider fails to submit a cost report within 90 days from the fiscal year end closing date, a penalty of 5 percent of the total monthly payment for the first month and a progressive penalty of 5 percent of the total monthly payment for each succeeding month may be levied and withheld from the vendor's payment for each month that the cost report is due, not extended, and not received. The penalty is nonrefundable.

Note: DHH's Institutional Reimbursement Section may grant a 30-day extension of the 90-day time limit, when requested by the ICF/MR provider, if just cause has been established. Extensions beyond 30 days may be approved for situations beyond the ICF/MR provider's control.

5. Cost Reports Errors. Cost reports errors greater than 10 percent in the aggregate for the ICF/MR provider for the cost report year may result in a maximum penalty of 10 percent of the current per diem rate for each month the cost report errors are not correct. The penalty is nonrefundable.

6. Corrective Action for Audit Findings. Vendor payments may be withheld when an ICF/MR facility fails to submit corrective action in response to financial and compliance audit findings within 15 days after receiving the notification letter until such time compliance is achieved.

7. Failure to Respond or Adequately Respond to Requests for Financial/Statistical Information. When an ICF/MR facility fails to respond or adequately respond to requests from DHH for financial and statistical information within 15 days after receiving the notification letter, vendor payments may be withheld until such time the requested information is received.

8. Insufficient Medical Recertification. When an ICF/MR provider fails to secure recertification of a client's need for care and services, the vendor's payment for that individual may be withheld or recouped until compliance is achieved.

9. Inadequate Review/Revision of Plan of Care (IHP). When an ICF/MR provider repeatedly fails to ensure that an adequate plan of care for a client is reviewed and revised at least at required intervals, the vendor's payment may be withheld or recouped until compliance is achieved.

10. Failure to Submit Response to Survey Reports. When an ICF/MR provider fails to submit an acceptable response within 30 days after receiving a Survey Report from DHH, HCFA, OIG and the legislative auditor, vendor payments may be withheld until an adequate response is received, unless the appropriate agency extends the time limit.

11. Corrective Action on Complaints. When an ICF/MR fails to submit an adequate corrective action plan in response to a complaint within seven days after receiving the complaint report, vendor payments may be withheld until an adequate corrective action plan is received, unless the time limit is extended by the DHH.

12. Delinquent Utilization Data Requests. Facilities will be required to timely submit utilization data requested by the

DHH. Providers will be given written notice when such utilization data has not been received by the due date. Such notice will advise the provider of the date the utilization data must be received by to avoid withholding of vendor payments. The due date will never be less than 10 days from the date the notice is mailed to the provider. If the utilization data is not received by the due date provided in the notice, the medical vendor's payment will be withheld until the utilization data is received.

13. Termination or Withdrawal from the Medicaid Program. When a provider is terminated or withdraws from the Medicaid Program, vendor payment will be withheld until all programmatic and financial issues are resolved.

E. Civil Fines. Louisiana R.S. 40:2199 authorized DHH to impose monetary sanctions on those health care facilities found to be out of compliance with any state or federal law or rule concerning the operation and services of the health care provider.

1. Any ICF/MR found to be in violation of any state or federal statute, regulation, or any Department of Health and Hospitals (DHH) rule adopted pursuant to the Act governing the administration and operation of the facility may be sanctioned as provided in the schedule of fines listed under Paragraph 2 below.

a. Repeat Violation. A *repeat violation* is defined as a violation of a similar nature as a previously cited violation that occurs within 18 months of the previously cited violation. DHH has the authority to determine when a violation is a *repeat violation*.

b. Opening or Operating a Facility Without a License. The opening or operation of a facility without a license or registration will be a misdemeanor, punishable upon conviction by a fine of not less than \$1,000 nor more than \$5,000.

i. Each day's violations will constitute a separate offense.

ii. On learning of such an operation, DHH will refer the facility to the appropriate authorities for prosecution.

c. Any ICF/MR found to have a violation that poses a threat to the health, safety, rights, or welfare of a resident or client may be liable for civil fines in addition to any criminal action that may be brought under other applicable laws.

2. Description of Violations and Applicable Civil Fines

a. Class A Violations. A Class A violation is a violation of a rule or regulation that creates a condition or occurrence relating to the maintenance or operation of a facility that results in death or serious harm to a resident or client.

i. Examples of Class A violations include, but are not limited to, the following:

(a). acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in the death of a resident or client; and

(b). acts or omissions by an employee or employees of a facility that either knowingly or negligently resulted in serious harm to a resident or client.

ii. Civil fines for Class A violations may not exceed:

(a). \$2,500 for the first violation; or

(b). \$5,000 per day for repeat violations.

b. Class B Violations. A Class B violation is a violation of rule or regulation in which a condition or occurrence relating to the maintenance or operation of a facility is created that results in the substantial probability that death or serious harm to the client or resident will result if the condition or occurrence remains uncorrected.

i. Examples of Class B violations include, but are not limited to, the following:

(a). medications or treatments improperly administered or withheld;

(b). lack of functioning equipment necessary to care for clients;

(c). failure to maintain emergency equipment in working order;

(d). failure to employ a sufficient number of adequately trained staff to care for clients; and

(e). failure to implement adequate infection control measures.

ii. Civil fines for Class B violations may not exceed:

(a). \$1,500 for the first violation; or

(b). \$3,000 per day for repeat violations.

c. Class C Violations. A Class C violation is a violation of a rule or regulation in which a condition or occurrence relating to the maintenance or operation of the facility is created that threatens the health, safety, or welfare of a client or resident.

i. Examples of Class C violations include, but are not limited to, the following:

(a). failure to perform treatments as ordered by the physician;

(b). improper storage of poisonous substances;

(c). failure to notify physician and family of changes in condition of the client or resident;

(d). failure to maintain equipment in working order;

(e). inadequate supply of needed equipment;

(f). lack of adequately trained staff necessary to meet clients' needs; and

(g). failure to adhere to professional standards in giving care to the client.

ii. Civil fines for Class C violations may not exceed:

(a). \$1,000 for the first violation;

(b). \$2,000 per day for repeat violations.

d. Class D Violations. Class D violations are violations of rules or regulations related to administrative and reporting requirements that do not threaten the health, safety, rights, or welfare of a client or resident.

i. Examples of Class D violations include, but are not limited to, the following:

(a). failure to submit written reports of accidents;

(b). failure to timely submit a Plan of Correction;

(c). falsification of a record; and,

(d). failure to maintain clients financial records as required by rules or regulations.

- ii. Civil fines for Class D violations may not exceed:
 - (a). \$100 for the first violation;
 - (b). \$250 per day for repeat violations.
- e. Class E Violations
 - i. Class E violations occur when a facility fails to submit a statistical or financial report in a timely manner when such a report is required by rule or regulation.
 - ii. Civil fines for Class E violations may not exceed:
 - (a). \$50 for the first violation;
 - (b). \$100 per day for repeat violations.
- f. Maximum Amount for a Civil Fine
 - i. The aggregate fines assessed for violations determined in any one month may not exceed \$10,000 for a Class A and Class B violations.
 - ii. The aggregate fines assessed Class C, Class D, and Class E violations determined in any one month may not exceed \$5,000.
- g. DHH will have the authority to determine whether a violation is a repeat violation and sanction the provider accordingly. Violations may be considered repeat violations by DHH when the following conditions exist:
 - i. when DHH has established the existence of a violation as of a particular date and the violation is one that may be reasonably expected to continue until corrective action is taken, DHH may elect to treat said continuing violation as a repeat violation subject to appropriate fines for each day following the date on which the initial violation is established, until such time as there is evidence that the violation has been corrected; or
 - ii. when DHH has established the existence of a violation and another violation that is the same or substantially similar to the cited violation occurs within 18 months, the second and all similar subsequent violations occurring within the 18-month time period will be considered repeat violations and sanctioned accordingly.

3. Notice and Appeal Procedure

- a. When DHH imposes a sanction on a health care provider, it will give the provider written notice of the imposition. The notice will be given by certified mail and will include the following:
 - i. The nature of the violation(s) and whether the violation(s) is classified as a repeat violation;
 - ii. The legal authority that established the violation(s);
 - iii. The civil fine assessed for each violation;
 - iv. Inform the administrator of the facility that the facility has 10 days from receipt of the notice within which to request an informal reconsideration of proposed sanction;
 - v. Inform the administrator of the facility that the facility has 30 days from receipt of the notice within which to request an administrative appeal of the proposed sanction and that the request for an informal reconsideration does not extend the time limit for requesting an administrative appeal; and
 - vi. Inform the administrator of the facility that the consequences of failing to request an informal reconsideration and/or an administrative appeal will be that DHH's decision is

final and that no further administrative or judicial review may be had.

b. The provider may request an Informal Reconsideration of DHH's decision to impose a civil fine. This request must be written and made to DHH within 10 days of receipt of the notice of the imposition of the fine.

i. This reconsideration will be conducted by designated employees of DHH who did not participate in the initial decision to recommend imposition of a sanction.

ii. Oral presentation can be requested by the provider representative, and if requested, will be made to the designated employees.

iii. Reconsideration will be made on the basis of documents and oral presentations made by the provider to the designated employees at the time of the reconsideration.

(a). Correction of the deficient practice for which the sanction was imposed will not be the basis of the reconsideration.

(b). The designated employees will only have the authority to confirm, reduce or rescind the civil fine.

iv. DHH will notify the provider of the results of the reconsideration within 10 working days after the oral presentation.

v. This process is not in lieu of the administrative appeal and does not extend the time limits for filing an administrative appeal.

c. The facility may request an administrative appeal. If an administrative appeal is requested in a timely manner, the appeal will be held as provided in the Administrative Procedure Act (R.S. 49:950 et seq.) An appeal bond will be posted with the Bureau of Appeals as provided in R.S. 40:2199(D) or the provider may choose to file a devolutive appeal. A devolutive appeal means that the civil fine must be paid in full within 10 days of filing the appeal.

d. The provider may request judicial review of the administrative appeal decision as provided in the Administrative Procedure Act.

4. Collection of Fines

- a. Fines are final when:
 - i. an appeal is not requested within the specified time limits;
 - ii. the facility admits the violations and agrees to pay the fine; or
 - iii. the administrative hearing affirms DHH's findings of violations and time for seeking judicial review has expired.

b. When civil fines become final, they will be paid in full within 10 days of their commencement unless DHH allows a payment schedule in light of documented financial hardship. Arrangements with DHH for a payment schedule must commence within 10 days of the fines becoming final. Interest will begin to accrue at the current judicial rate on the day the fines become final.

c. If payment of assessed fines is not received within the prescribed time period after becoming final and the provider is a Medicaid provider, DHH will deduct the full amount plus the accrued interest from money otherwise due to the provider as Medicaid reimbursement in its next (quarterly or monthly) payment. If the provider is not a Medicaid

provider, DHH will institute civil actions as necessary to collect fines due.

d. No provider may claim imposed fines or interest as reimbursable costs, nor increase charges to residents, clients, or patients as a result of such fines or interest.

e. Civil fines collected will be deposited in the Health Care Facility Fund maintained by the state treasury.

F. Termination of Certification (Decertification) of an ICF/MR

Note: Federal regulations pertaining to this Subsection are 42 CFR 442.12- 442.117.

An ICF/MR may voluntarily or involuntarily lose its participating status in the Medical Assistance Program.

1. Reasons for a Decertification of an ICF/MR

a. The ICF/MR may voluntarily withdraw from the program for reasons of its own. The owner and administrator will submit a written notice of withdrawal to the DHH's HSS at least 60 days in advance.

b. A new owner may decide against participation in the program. A written 60-day notice of withdrawal will be submitted to DHH's HSS.

c. DHH may decertify an ICF/MR for failure to comply with Title XIX standards, thus canceling the facility's provider agreement.

d. DHH may decertify an ICF/MR if deficiencies pose immediate jeopardy to the client's health, safety, rights, or welfare.

e. The ICF/MR may allow its provider agreement to expire. A written 60-day advance notice of withdrawal will be submitted to the DHH's HSS.

f. DHH may cancel the provider agreement if and when it is determined that the ICF/MR is in material breach of the contract.

2. Recertification of an Involuntarily Decertified ICF/MR. After involuntary decertification, an ICF/MR cannot participate as a Medical Assistance provider unless the following conditions are met:

a. the reasons for the decertification or nonrenewal of the contract no longer exist;

b. reasonable assurance exists that the factors causing the decertification will not recur;

c. the ICF/MR demonstrates compliance with the required standards for a 60-day period prior to reinstatement in a participating status; and

d. a professional medical review reports that clients are receiving proper care and services.

3. Denial of Payments for New Admissions

a. New Admissions. New admissions refer to the admission of a person who has never been a Title XIX client in the ICF/MR or, if previously admitted, had been discharged or had voluntarily left the ICF/MR. This term does not include the following:

i. individuals who were in the ICF/MR before the effective date of denial of payment for new admissions, even if they become eligible for Title XIX after that date.

ii. individuals who, after a temporary absence from the ICF/MR, are readmitted to beds reserved for them in accordance with the admission process.

b. Basis for Denial of Payment. DHH may deny payment for new admissions to an ICF/MR that no longer meets applicable requirements as specified in these standards.

i. ICF/MR's deficiencies do not pose immediate jeopardy (serious threat). If DHH finds that the ICF/MR's deficiencies do not pose immediate jeopardy to clients' health, safety, rights, or welfare, DHH may either terminate the ICF/MR's provider agreement or deny payment for new admissions.

ii. ICF/MR's deficiencies do pose immediate jeopardy (serious threat). If DHH finds that the ICF/MR's deficiencies do pose immediate jeopardy to clients' health, safety, rights, or welfare, and thereby terminates the ICF/MR's provider agreement, DHH may additionally seek to impose the denial of payment for new admissions.

c. DHH Procedures. Before denying payments for new admissions, DHH will be responsible for the following:

i. providing the ICF/MR a time frame of up to 60 days to correct the cited deficiencies and comply with the standards for ICF/MRs;

ii. giving the ICF/MR notice of the intent to deny payment for new admissions and an opportunity to request an Informal Reconsideration if the facility has not achieved compliance at the end of the 60-day period;

iii. providing an informal hearing if requested by the ICF/MR that included the following:

(a). giving the ICF/MR the opportunity to present before a State Medicaid official not involved in the initial determination, evidence or documentation, in writing or in person, to refute the decision that the ICF/MR is out of compliance with the applicable standards for participation; and

(b). submitting a written decision setting forth the factual and legal basis pertinent to a resolution of the dispute.

iv. providing the facility and the public at least 15 days advance notice of the effective date of the sanction and reasons for the denial of payments for new admissions should the informal hearing decision be adverse to the ICF/MR.

d. Duration of Denial of Payments and Subsequent Termination

i. Period of Denial. The denial of payments for new admissions will continue for 11 months after the month it was imposed unless, before the end of that period, DHH determines:

(a). the ICF/MR has corrected the deficiencies or is making a good faith effort to achieve compliance with the standards for ICF/MR participation; or

(b). the deficiencies are such that it is now necessary to terminate the ICF/MR's provider agreement.

ii. Subsequent Termination. DHH must terminate an ICF/MR's provider agreement under the following conditions:

(a). upon finding that the ICF/MR has been unable to achieve compliance with the standards for participation during the period that payments for new admissions had been denied;

(b). effective the day following the last day of the denial of payments;

(c). in accordance with the procedures for appeal of termination set forth in §10355, Appeals.

4. Examples of Situations Determined to Pose Immediate Jeopardy (Serious Threat). Listed below are some examples of situations determined to pose immediate jeopardy (serious threat) to the health, safety, rights, and welfare of clients in ICF/MR. These examples are not intended to be all inclusive. Other situations adversely affecting clients could constitute sufficient basis for the imposition of sanctions.

a. Poisonous Substances. An ICF/MR fails to provide proper storage of poisonous substances, and this failure results in death of or serious injury to a client or directly threatens the health, safety, or welfare of a client.

b. Falls. An ICF/MR fails to maintain required direct care staffing and/or a safe environment as set forth in the regulations, and this failure directly causes a client to fall resulting in death or serious injury or directly threatens the health, safety, or welfare of a client.

Examples: Equipment not properly maintained or personnel not responding to a client's request for assistance.

c. Assaults

i. By Other Clients. An ICF/MR fails to maintain required direct care staffing and fails to take measures when it is known that a client is combative and assaultive with other clients, and this failure causes an assault upon another client, resulting in death or serious injury or directly threatens the health, safety, and welfare of another client.

ii. By Staff. An ICF/MR fails to take corrective action (termination, legal action) against an employee who has a history of client abuse and assaults a client causing death or the situation directly threatens the health, safety, and welfare of a client.

d. Physical Restraints Results in Permanent Injury. ICF/MR personnel improperly apply physical restraints contrary to published regulations or fail to check and release restraints as directed by regulations or physician's written instructions, and such failure results in permanent injury to a client's extremity or death or directly threatens the health, safety and welfare of a client.

e. Control of Infections. An ICF/MR fails to follow or meet infection control standards as ordered in writing by the physician, and this failure results in infections leading to the death of or serious injury to a client or directly threatens the health, safety, and welfare of a client.

f. Medical Care

i. An ICF/MR fails to secure proper medical assistance for a client, and this failure results in the death of or serious injury to the client.

ii. A client's condition declined and no physician was informed, and this failure directly threatens the health, safety, or welfare of the client. This would also include the following:

(a). failure to follow up on unusual occurrences of negative findings;

(b). failure to obtain information regarding appropriate care before and after a client's hospitalization;

(c). failure to timely hospitalize a client during a serious illness.

iii. ICF/MR personnel have not followed written physician's orders, and this failure directly threatens the health,

safety, or welfare of a client. This includes failure to fill prescriptions timely.

g. Natural Disaster/Fire. An ICF/MR fails to train its staff members in disaster/fire procedures as required by state rules and regulations for licensing of ICF/MRs or an ICF/MR fails to meet staffing requirements, and such failures result in the death of or serious injury to a client during natural disaster, fire or directly threatens the health, safety, or welfare of a client.

h. Decubitus Ulcers (Bed Sores). An ICF/MR fails to follow decubitus ulcer care measures in accordance with a physician's written orders, and such failure results in the death of, serious injury to, or discomfort of the client or directly threatens the health, safety, and welfare of a client.

i. Elopement. An ICF/MR fails to provide necessary supervision of its clients or take measures to prevent a client with a history of elopement problems from wandering away and such failure results in the death of or serious harm to the client or directly threatens the health, safety, and welfare of the client. Examples of preventive measures include, but are not limited to:

i. documentation that the elopement problem has been discussed with the client's family and the Interdisciplinary Team; and,

ii. that personnel have been trained to make additional efforts to monitor these clients.

j. Medications

i. An ICF/MR knowingly withholds a client's medications and such actions results in the death of or serious harm to the client or directly threatens the health, safety, and welfare of the client.

Note: The client does have the right to refuse medications. Such refusal must be documented in the client's record and brought to the attention of the physician and ID team.

ii. medication omitted without justification;

iii. excessive medication errors;

iv. improper storage of narcotics or other prescribed drugs, mishandling of drugs or other pharmaceutical problems.

k. Environment/Temperature. An ICF/MR fails to reasonably maintain its heating and air-conditioning system as required by regulations, and this failure results in the death of, serious harm to, or discomfort of a client or creates the possibility of death or serious injury. Isolated incidents of breakdown or power failure will not be considered immediate jeopardy.

l. Improper Treatments

i. ICF/MR personnel knowingly perform treatment contrary to a physician's order, and such treatment results in the death of or serious injury to the client or directly threatens the health, safety, and welfare of the client.

ii. An ICF/MR fails to feed clients who are unable to feed themselves as set forth in physician's instructions.

Note: Meals should be served at the required temperature.

iii. An ICF/MR fails to obtain a physician's order for use of chemical or physical restraints; the improper application of a physical restraint; or failure of facility personnel to check and release the restraints periodically as specified in state regulations.

m. Life Safety. An ICF/MR knowingly fails to maintain the required Life Safety Code System such as the following:

i. properly functioning sprinklers, fire alarms, smoke sensors, fire doors, electrical wiring;

ii. practice of fire or emergency evacuation plans; or

iii. stairways, hallways and exits free from obstruction; and noncompliance with these requirements results in the death of or serious injury to a client or directly threatens the health, safety, and welfare of a client.

n. Staffing. An ICF/MR consistently fails to maintain minimum staffing that directly threatens the health, safety, or welfare of a client. Isolated incidents where the facility does not maintain staffing due to personnel calling in sick or other emergencies are excluded.

o. Dietary Services. An ICF/MR fails to follow the minimum dietary needs or special dietary needs as ordered by a physician, and failure to meet these dietary needs threatens the health, safety or welfare of a client. The special diets must be prepared in accordance with physician's orders or a diet manual approved by the American Dietary Association.

p. Sanitation. An ICF/MR fails to maintain state and federal sanitation regulations, and those violations directly affect and threaten the health, safety, or welfare of a client.

Examples: Strong odors linked to a lack of cleanliness; Dirty buildup on floors and walls; Dirty utensils, glasses and flatware; Insect or rodent infestation

q. Equipment and Supplies. An ICF/MR fails to provide equipment and supplies authorized in writing by a physician as necessary for a client's care, and this failure directly threatens the health, safety, welfare or comfort of a client.

r. Client Rights

i. An ICF/MR violates its clients' rights and such violations result in the clients' distress to such an extent that their psychosocial functions are impaired or such violations directly threaten their psychosocial functioning. This includes psychological abuse.

ii. The ICF/MR permits the use of corporal punishment.

iii. The ICF/MR allows the following responses to clients by staff members and employment supervisors:

(a). physical exercise or repeated physical motions;

(b). excessive denial of usual services;

(c). any type of physical hitting or other painful physical contacts except as required by medical, dental, or first aid procedures necessary to preserve the individual's life or health;

(d). requiring the individual to take on an extremely uncomfortable position;

(e). verbal abuse, ridicule, or humiliation;

(f). requiring the individual to remain silent for a long period of time;

(g). denial of shelter, warmth, clothing or bedding;

or

(h). assignment of harsh physical work.

iv. The ICF/MR fails to afford the client with the opportunity to attend religious services.

v. The ICF/MR denies the client the right to bring

his or her personal belongings to the program, to have access, and to acquire belongings in accordance with the service plan.

vi. The ICF/MR denies a client a meal without a doctor's order.

vii. The ICF/MR does not afford the client with suitable supervised opportunities for interaction with members of the opposite sex, except where a qualified professional responsible for the formulation of a particular individual's treatment/habilitation plan writes an order to the contrary and explains the reasons.

Note: The secretary of DHH has the final authority to determine what constitutes "immediate jeopardy" or serious threat.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:153.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 13:578 (October 1987), amended by the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing, LR 25:701 (April 1999).

David W. Hood
Secretary

9904#027

RULE

Department of Insurance Office of the Commissioner

Regulation 65—Bail Bond Licensing Requirements/Bounty Hunter (LAC 37:XIII.Chapter 49)

This Regulation is authorized by LA. R.S. 22:3, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3 and 22:1191(B).

This Regulation requires the mandatory licensing of all unlicensed bounty hunters conducting apprehensions or surrenders on behalf of insurance companies.

This Regulation establishes guidelines for premium fee administration, transacting an apprehension or surrender of a principal, bond surrender due to nonpayment of premium, precensing for applicants and continuing education for licensed agents or solicitors. Additionally the Regulation outlines the hearing process and fines as delineated in the Louisiana Insurance Code. Definitions and related matters are also addressed in the Regulation. This regulation applies to all licensed bail agents or solicitors and unlicensed bounty hunters that engage in the apprehension or surrender of a principal.

This Regulation enables the Commissioner of Insurance to regulate the bail bond industry and eliminate and penalize those individuals for unsafe practices, which are a threat to the public's health, safety, and welfare.

Title 37

INSURANCE

Part XIII. Regulations

Chapter 49. Regulation 65—Bail Bond Licensing Requirements/Bounty Hunter

§4901. Purpose

The purpose of this regulation is to establish guidelines for licensing, for transacting an apprehension or surrender of a

principal, prelicensing for applicants and continuing education for licensed agents or solicitors, bail bonds, fines and hearings, definitions and related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:706 (April 1999).

§4903. Definitions

The following terms when used in this Chapter shall have the following meanings:

Bail Bond Agent—shall mean a person, corporation, or partnership which holds an insurance agent or solicitor license and who is authorized to provide surety in Louisiana, and/or engages in the apprehension and return of persons who are released on bail or who failed to appear at any state of the proceedings to answer the charge before the court in which they may be prosecuted. For purposes of this regulation a bail recovery agent is synonymous with a bail bond agent.

Bail Enforcement—means the apprehension or surrender of a principal by a natural person who is released on bail or who has failed to appear at any state of the proceedings to answer the charge before the court in which he may be prosecuted.

Bail Solicitor—means an individual who holds an insurance license and is authorized by a duly licensed bail bond agent to solicit contracts of bail bond insurance and engages in bail enforcement, solely on behalf of the licensed bail bond agent.

Commissioner—means the Louisiana Commissioner of Insurance.

Department—means the Louisiana Department of Insurance.

Insurer—means any domestic or foreign insurance corporation or association engaged in the business of insurance or suretyship which has qualified to transact surety or casualty business in this state.

Surrender—as defined by the L.A.-CCRP Article 345.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999).

§4905. Bail Recovery Agent License Requirements for Louisiana

A. In order to engage, to transact, or assist in the apprehension or surrender of a principal, a person must be a duly licensed bail bond agent or solicitor, pursuant to Part XXIV and Part XXV-A of the Louisiana Insurance Code.

1. Prelicensing

a. On and after May 1, 1999, all persons applying for a bail bond agent or solicitor license must complete 8 hours of supervised instruction approved by the department, four (4) hours of which, must be instruction in bail enforcement.

2. Continuing Education Program

a. Persons holding a valid bail bond agent or solicitor license must complete 12 hours of a continuing education program, approved by the department, every two- year licensing period, four (4) hours of which must be instruction in bail enforcement. On or before January 1st of every odd

numbered year, all duly licensed bail bond agents shall have completed 12 hours of continuing education described in this section.

3. On and after May 1, 2000, no person shall engage in the bail bond insurance business, including enforcement and bail recovery activities, unless such person is duly licensed bail bond agent or solicitor pursuant to Part XXIV and Part XXV-A of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999).

§4907. Bail Recovery Persons License Requirement from Other States

Bail Recovery persons from other states must be duly authorized to transact bail enforcement or be a licensed bail bond agent in the state where the bond was written and shall act in association with a local bail agent duly licensed by the Louisiana Department of Insurance to transact bail enforcement in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999).

§4909. Out of State Bail Enforcement Procedure and Notification Requirements

A. In order for a bail recovery person from another state to transact a surrender or apprehension of a principal in Louisiana, the following shall be done.

1. Before conducting surrender or apprehension of a principal, the bail recovery person(s) from other states shall notify the local law enforcement.

2. Bail recovery persons from other states must have in their possession certified copies of material needed to identify the principal. Said materials shall be:

a. a judgement of bond forfeiture or court order of failure to appear and/or certified copy of bond and/or the agent's duly executed copy of the contract;

b. a photograph of the principal; and

c. documentation reflecting that person is duly authorized to transact bail enforcement by the state where the bond was written.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999).

§4911. In State Bail Enforcement Procedure and Notification Requirement

A. In order to transact a surrender or apprehension of a principal, the following shall be done.

1. Before conducting a surrender or apprehension of a principal, the bail bond agent or solicitor shall notify the local law enforcement in the parish or city where the principal is sought unless exigent circumstances exist.

2. The bail bond agent or solicitor shall be required to wear identifying clothing before transacting a surrender or an apprehension in a private residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999).

§4913. Prohibited Acts

A. No licensed bail agent or solicitor shall improperly withhold, misappropriate, fail to timely remit premiums and reports of bonds written, or convert to one's own use any monies belonging to principals, sureties and underwriters, or others possessed in the course of the business of insurance.

B. No licensed bail agent or solicitor shall perform bail enforcement in pursuit of any principal released on bail for nonpayment of premium. The surrender of a principal in violation of this subsection shall entitle the principal to the return of any premium paid.

C. No licensed bail agent or solicitor shall remove or have removed any bail bond power of attorney from the clerk of court or sheriff.

D. No licensed bail agent or solicitor shall transact or engage in the surrender or apprehension of a principal with the assistance of an unlicensed person.

E. No commercial surety shall fail to timely pay bond forfeiture claims that meet the requirements of L.A.-R.S. 22:658.1A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:708 (April 1999).

§4915. Enforcement of Regulation

A. The Commissioner is vested with the authority to enforce this Regulation. The Department may conduct investigations or request other state, parish or local officials to conduct investigations.

B.1. Violations of this Section are governed by Part XXIV (Qualification and License Requirements for Insurance Agents, Brokers, Surplus Lines Brokers and Solicitors) and XXVI (Unfair Trade Practices) of the Louisiana Insurance Code.

2. The commissioner shall impose penalties, sanctions or fines as delineated in Part XXIV and XXVI of the Louisiana Insurance Code. The Commissioner may seek contained herein that results in a public harm.

C. The Commissioner may promulgate such rules and regulations as may be deemed necessary for the enforcement of this regulation. The Department shall impose penalties, sanctions or fines as delineated in the Louisiana Insurance Code and collect such fines as necessary for the enforcement of such rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:708 (April 1999).

§4917. Effective Date

This regulation shall become effective on final publication in the April 1999 *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:708 (April 1999).

James H. "Jim" Brown
Commissioner of Insurance

9904#054

RULE

Department of Social Services Office of Community Services

Homeless Trust Fund (LAC 48:I.Chapter 18)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Department of Social Services amends the existing rule, originally promulgated in the *Louisiana Register*, Volume 21, pages 401-402, (April 1995) establishing a procedure to disburse funds from the Louisiana Homeless Trust Fund. The amended rule deletes references to the Homeless Trust Fund Advisory Council, which was abolished by Act 1116 of the 1997 Legislature, and solely authorizes the Department of Social Services to implement and oversee the disbursement process for the Homeless Trust Fund. The amended rule also repeals §1813, which required the retention of a minimum residual amount in the Trust Fund, in order to allow all remaining trust fund monies to be disbursed in full. In October, 1995, under provisions of R.S. 47:120.37, the Homeless Trust Fund was removed from the donation schedule of the state income tax return, terminating revenues from this source for replenishment of the Trust Fund, and obviating the need for retention of a funding reserve.

The Homeless Trust Fund rule is hereby amended to incorporate and substitute the revised provisions stated below.

Title 48

PUBLIC HEALTH

Part I. General Administration

Chapter 18. Homeless Trust Fund

§1801. Definitions

A. In this Chapter:

DSS—means the Department of Social Services (Office of Community Services).

Fund—means the Louisiana Homeless Trust Fund established by R.S. 46:591 through 46:595.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), amended LR 25:708 (April 1999).

§1803. Application Requests

A. To receive an application, an organization that aids the homeless must submit a written request to DSS containing the following information:

1. name of the organization;
2. mailing address of the organization;
3. phone number of the organization;
4. contact person within the organization; and
5. proof of the organization's nonprofit and tax exempt status or of nonprofit application pending.

B. An organization that submits an application request will be added to DSS's mailing list and DSS shall mail the organization information about application requirements and deadlines.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), amended LR 25:708 (April 1999).

§1805. Application Requirements and Deadlines

A. The application for funds must contain:

1. name and mailing address of the organization;
2. names and addresses of the organization's Board of Directors;
3. certification of the organization's nonprofit and tax exempt status or of nonprofit application pending;
4. brief history of the organization and its programs;
5. description of the proposed use of the requested funds;
6. description of the unmet needs of the homeless in the organization's community, including the source of the information;
7. itemized budget and budget justification for the Trust Fund proposal;
8. summary of organization's annual budget and sources of income;
9. documentation of the availability of matching funds for the proposal.

B. DSS will issue solicitations for grant applications after the end of the state fiscal year when the balance in the Fund is determined. The solicitation for grant applications will outline application deadlines and describe the eligible projects that DSS will fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), amended LR 25:709 (April 1999).

§1807. Review of Applications

A. DSS will review complete applications in the order the applications are received.

B. DSS shall evaluate each application according to the following factors:

1. the extent to which the proposal meets the needs of the homeless in the organization's service community, as identified by the most recent report of the Louisiana Interagency Council on the Homeless;
2. the extent to which the organization requires Homeless Trust Fund monies as an equivalent match for other homeless assistance funding;
3. the demonstrated success of the program in meeting the needs of the homeless, if the proposal concerns an existing program;
4. the extent to which the proposal provides for direct services or housing needs, rather than administrative services; and
5. other factors as identified in DSS's solicitation for grant applications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), amended LR 25:709 (April 1999).

§1809. Notification and Appeals

A. DSS shall notify applicants of award decisions no later than 30 days after the date of DSS's decision.

B. An organization shall notify DSS in writing and by mail of whether the organization accepts the award no later than 30 days after the date the organization received DSS's notification.

C. DSS shall publish in the *Louisiana Register* a list of all projects funded during the previous state fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), amended LR 25:709 (April 1999).

§1811. Emergency Grants

At any time, DSS may authorize an emergency grant of up to \$2,000 to an organization that aids the homeless, as long as funding is available. A request for an emergency grant must state the immediate nature of the request and comply with §1805.A of this rule.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), amended LR 25:709 (April 1999).

§1813. Residual Funds in the Homeless Trust Fund

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:591 et seq.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Community Services, LR 21:401 (April 1995), repealed LR 25:709 (April 1999).

Madlyn Bagneris
Secretary

9904#040

RULE

**Department of Social Services
Office of Family Support**

Family Independence Temporary Assistance Program
(FITAP)—Earned Income Deductions
(LAC 67:III.1149)

The Department of Social Services, Office of Family Support, has amended the *Louisiana Administrative Code*, Title 67, Part III, Subpart 2, the Family Independence Temporary Assistance Program (FITAP).

Pursuant to the authority granted to the Department by the Louisiana Temporary Assistance to Needy Families Block Grant, the agency has removed the maximum limit allowed for a dependent care deduction. Although policy was changed removing the cap on the dependent care deduction effective March 1998, the agency failed to revise §1149. Additionally, the agency has removed the dependent care deduction for those recipients who received FITAP in October 1988 or August

1992 based on application of the deduction and when such recipients would be disadvantaged by loss of the deduction.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 2. Family Independence Temporary Assistance Program (FITAP)

Chapter 11. Application, Eligibility, and Furnishing Assistance

Subchapter C. Need and Amount of Assistance

§1149. Earned Income Deductions

A.1. - 2. ...

3. Dependent Care. Recipients may be entitled to a deduction for dependent care for an incapacitated adult, or for a child age 13 or older who is not physically or mentally incapacitated or under court supervision.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, R.S. 46:460.4.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 8:8 (January 1982), amended LR 10:1030 (December 1984), amended by the Department of Social Services, Office of Eligibility Determinations, LR 15:629 (August 1989), amended by the Department of Social Services, Office of Family Support, LR 18:869 (August 1992), LR 23:1707 (December 1997), LR 25:710 (April 1999).

Madlyn B. Bagneris
Secretary

9904#048

RULE

**Department of Social Services
Office of Family Support**

**Food Stamp Program—Alien Eligibility
(LAC 67:III.1928, 1931-1933, 1994)**

The Department of Social Services, Office of Family Support, has amended LAC 67:III.Chapter 19 pertaining to the Food Stamp Program.

Since 1996 several public laws revising the *United States Code* have prompted the agency to promulgate and amend rules with regard to the food stamp eligibility of non-citizens. Program review of the Notice of Intent and Declaration of Emergency concerning §1994 (*Louisiana Register*, October 1998) revealed that previous revisions had failed to include the basic regulations regarding qualified aliens. Further review noted that although Subchapter D was originally reserved for this subject area, the agency had failed to utilize it. Because Subchapter K contained reference to aliens, the first revision pursuant to welfare reform was an amendment to it.

Therefore, the agency now proposes to promulgate these regulations under Subchapter D. A change is also necessary to expand the section numbers available under Subchapter D. To accomplish this current §1931 entitled Verification of Eligibility has been renumbered as §1928 with no change to its content.

Title 67

SOCIAL SERVICES

Part III. Office of Family Support

Subpart 3. Food Stamps

Chapter 19. Certification of Eligible Households

Subchapter B. Application Processing

§1928. Verification of Eligibility

A. The Office of Family Support shall require verification of residency requirements, the identity of the person making application and continuing shelter charges.

B. The Office of Family Support may, with prior Food and Nutrition Service approval, require additional verification of other eligibility factors as indicated by quality control reviews, audits, or other special reviews.

C. The agency will require verification of necessary information within 10 days. Failure to provide such verification may result in rejection of the application unless the household has requested additional time in which to obtain the verification or assistance in obtaining the verification. If the case is closed due to failure to submit required verification and the verification is subsequently provided within the initial 30-day period, the application will be reactivated retroactively to the date of application. If the verification is provided in the second 30-day period, the application will be reactivated and benefits will be prorated from the date the missing verification is provided.

AUTHORITY NOTE: Promulgated in accordance with F.R. 46:3194 et seq., 7 CFR 273.2, 7 CFR 273.3.c.(1)(ii).

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:710 (April 1999).

Subchapter D. Citizenship and Alien Status

§1931. Qualified Aliens

A. In addition to U.S. citizens, the following qualified aliens are eligible for benefits:

1. an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act;
2. an alien who is granted asylum under Section 208 of such Act;
3. a refugee who is admitted to the United States under Section 207 of such Act;
4. an alien who is paroled into the United States under Section 212(d)(5) of such Act for a period of at least one year;
5. an alien whose deportation is withheld under §243(h) of such Act (as in effect immediately before the effective date of §307 of Division C of Public Law 104-208) or §241.b.3 of such Act (as amended by Section 305(a) of Division C of Public Law 104-208);
6. an alien who is granted conditional entry pursuant to §203(a)(7) of such Act as in effect prior to April 1, 1980; or
7. an alien who is a *Cuban* or *Haitian* entrant, as defined in §501.e of the Refugee Education Assistance Act of 1980;
8. an alien who has been battered or subjected to extreme cruelty in the United States by a spouse or parent, or by a member of the spouse's or parent's family residing in the same household as the alien if the spouse or parent consented to, or acquiesced in, such battery or cruelty. The individual who has been battered or subjected to extreme cruelty must no longer reside in the same household with the individual who committed the battery or cruelty. The agency must also

determine that a substantial connection exists between such battery or cruelty and the need for the benefits to be provided. The alien must have been approved or have a petition pending which contains evidence sufficient to establish:

- a. the status as a spouse or a child of a United States citizen pursuant to clause (ii), (iii), or (iv) of §204(a)(1)(A) of the Immigration and Nationality Act (INA); or
- b. the classification pursuant to clause (ii) or (iii) of Section 204(a)(1)(B) of the INA; or
- c. the suspension of deportation and adjustment of status pursuant to §244(a)(3) of the INA; or
- d. the status as a spouse or child of a United States citizen pursuant to clause (i) of §204(a)(1)(A) of the INA, or classification pursuant to clause (i) of Section 204(a)(1)(B) of the INA;

9. an alien child or the alien parent of a battered alien as described in §1931.A.8.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 104-208, P.L. 105-33 and P.L. 105-185.

HISTORICAL NOTE: Promulgated by the Department of Health and Human Resources, Office of Family Security, LR 7:265 (May 1981), amended by the Department of Social Services, Office of Family Support, LR 22:286 (April 1996), LR 25:710 (April 1999).

§1932. Time Limitations for Certain Aliens

A. The following qualified aliens are eligible for benefits for a period not to exceed seven years after they obtain designated alien status:

1. refugees admitted under §207 of the Immigration and Nationality Act (INA);
2. asylees admitted under §208 of the INA; and
3. an alien whose deportation is withheld under §243(h) of such ACT (as in effect immediately before effective date of §307 of division C of P.L. 104-208) or §241(b)(3) of such Act (as amended by Section 305(a) of division C of P.L. 104-208);
4. *Cuban* and *Haitian* entrants as defined in §501(e) of the Refugee Education Assistance Act of 1980;
5. *Amerasian* immigrants admitted pursuant to §584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 as contained in §101(e) of P.L. 100-202 and amended by the 9th proviso under migration and refugee assistance in Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, P.L. 100-461, as amended.

B. The following qualified aliens are eligible for an unlimited period of time:

1. veterans who have met the minimum active duty service requirements of Section 5303 A(d) of Title 38, *United States Code*, who were honorably discharged for reasons other than alienage and their spouses or unremarried surviving spouses, if the marriage fulfills the requirements of Section 1304 of Title 38, *United States Code*, and unmarried dependent children;

2. active duty personnel (other than active duty for training) and their spouses, or unremarried surviving spouses, if the marriage fulfills the requirements of Section 1304 of Title 38, *United States Code*, and unmarried dependent children;

3. aliens who have worked 40 qualifying quarters of coverage under Title II of the Social Security Act or can be credited with such qualifying quarters;

4. individuals who were lawfully residing in the United States on August 22, 1996 and are receiving benefits or assistance for blindness or disability as defined in §3(r) of the Food Stamp Act of 1997.

5. individuals who were lawfully residing in the United States on August 22, 1996 and were 65 years of age or older;

6. individuals who were lawfully residing in the United States on August 22, 1996 and are under 18 years of age.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 105-33 and P.L. 105-185.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:711 (April 1999).

§1933. Non-Qualified Aliens

A. The following aliens may be eligible for an indefinite period of time even though they are not qualified aliens.

1. Individuals who are lawfully residing in the United States and were members of a Hmong or Highland Laotians tribe at the time the tribe rendered assistance to the United States personnel by taking part in a military rescue operation during the Vietnam era beginning August 5, 1964 and ending May 7, 1975, as defined in §101 of Title 38, *United States Code*; the spouse or an unmarried, dependent child of such an individual; or the unremarried surviving spouse of such an individual who is deceased.

2. Individuals who are American Indian born in Canada to whom the provisions of §289 of the Immigration and Nationality Act apply or who is a member of an Indian tribe as defined in §4(e) of the Indian Self-Determination and Education Assistance Act.

AUTHORITY NOTE: Promulgated in accordance with P.L. 105-185.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 25:711 (April 1999).

Subchapter K. Action on Households with Special Circumstances

§1994. Alien Eligibility

Repealed.

AUTHORITY NOTE: Promulgated in accordance with P.L. 104-193, P.L. 104-208 and P.L. 105-33.

HISTORICAL NOTE: Promulgated by the Department of Social Services, Office of Family Support, LR 23:83 (January 1997), LR 24:354 (February 1998), repealed LR 25:711 (April 1999).

Madlyn B. Bagneris
Secretary

9904#039