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Emergency Rules

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

The State Board of Elementary and Secondary Education at its regular meeting on May 25, 1978, exercised the emergency rule-making provision of the Administrative Procedures Act, R.S. 49:953B, to revise Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, to permit certified elementary teachers of reading to teach remedial reading at the high school level. This revision will appear in the *Policy and Procedure Manual* as Rule 3.01.70v(21). Parish superintendents are now in the process of employing teachers for the 1978-79 school year. There presently exists a scarcity of certified high school teachers in the field of reading and it is felt that the elementary certified teacher has the capability and background to teach remedial reading at that level. This policy change will allow local education agencies to employ certified elementary teachers in order to provide quality education for the children in Louisiana.

James V. Soileau, Director
Board of Elementary and Secondary Education

DECLARATION OF EMERGENCY

Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, has adopted, effective June 1, 1978, policy 19-347 of the *Medical Assistance Manual*, Chapter XIX, which defines the treatment of home property six months after a Medicaid recipient enters a nursing home.

The policy reads as follows:

19-347 A.(2) Treatment of Home Property of Applicant/Recipient in a Nursing Home.

(a) Home property of a person converted to Supplemental Security Income (SSI) or a person who was receiving Title XIX nursing home vendor payments only in December, 1973 is protected by Office of Family Services (OFS) policy on home property in effect in December, 1973 as long as the provisions of that policy are met and the person continues to meet grandfather provisions. OFS policy as of December, 1973 provides that:

When the client is forced to live away from home, his property shall continue to be considered his home (shall not be considered excess property) if he is keeping it available and intends to use it as his home when his condition permits.

This policy shall apply when the client is forced to live elsewhere because of his need for nursing care or medical care, or had to leave his home temporarily because of natural disaster, such as a flood.

(b) For those individuals whose eligibility for Medical Assistance was or is determined on or after January 1, 1974—that is, those individuals whose eligibility is not protected under the SSI “grandfather” provision noted in (a) above—the SSI policies in effect relative to home property are applicable. That policy now provides that “Short temporary absences from home like trips, visits, and hospitalization do not affect the home exclusion as

long as the individual intends to return home. An absence of more than six months, however, may indicate that the home no longer serves as the principal place of residence if the home is not used by the spouse or dependent relative. For example, in the case of a long medical confinement of indefinite duration the point may be reached where it is unrealistic to say that the absence is only temporary, even though the individual may intend to return home.”

Since a long absence (more than six months) “may indicate” that the client will not be able to retain the home as the principal place of residence, and it remains the intent of the client to return home, the home shall be excluded as a resource until a determination is made, based on medical opinion, that there is no possibility that the client’s intent can be realized during the remainder of his life. This factor shall be reviewed no less frequently than once annually, and a statement signed by the client’s treating physician shall be secured. Suggested statements, which can be prepared for the physician’s signature, are as follows:

(1) If the physician is of the opinion that there is no possibility that the client can return to his home, the following is suggested:

It is my opinion that _____’s physical or mental condition is such that he will not be able to return to his home during the remainder of his life.

Date Physician’s Signature

(2) If the physician cannot certify that the client will not be able to return to his home, the following is suggested:

I am unable to conclude on the basis of my findings of _____’s physical or mental condition that he will not be able to return to his home during the remainder of his life. There continues to be a possibility, given the right conditions, that he will be able to return to his home.

Date Physician’s Signature

(3) If the treating physician will not sign a statement, the case shall be referred to the Medical Social Review Team (MSRT) of the Office of Family Services for the required determination. The referral in the form of a memo directed to the MSRT shall contain current medical information and pertinent social data and the suggested statements as noted in (1) and (2) above. When MSRT renders its decision regarding the status of the return home, the appropriate statement shall be signed and dated by the designated MSRT physician and the memo returned to the local office.

(c) When the physician and/or MSRT certifies that the client will not be able to return to his home, the home shall be declared an excess resource and the client shall have three months to dispose of the property.

An extension to the three month limit is possible in situations where the client makes concrete efforts to sell and/or legally dispose of the property. In these situations, the extension is granted by State Office. The request shall be in the form of a memorandum with a summary of the situation.

It will not be necessary to obtain a physician’s and/or MSRT’s statement in the following situations:

(1) The client’s spouse and/or dependent relative live there; or,

(2) If an SSI eligible has joint ownership of the home; or

(3) The client’s equity does not exceed six thousand dollars and a six percent return is received.

In these situations, the home property is excludable as a resource.

(3) Residence Factor of Eligibility.

The applicant for Title XIX benefits meets the eligibility criteria if he is living in Louisiana voluntarily with the intention to remain a resident of Louisiana, and not for a temporary purpose.

A resident of another state who becomes ill while visiting in Louisiana or who is brought to Louisiana for medical treatment is not eligible for Title XIX benefits from Louisiana.

This revision will allow the Medical Assistance Program to fully comply with Federal regulation 42 CFR 448.3. This action shall be taken pursuant to R.S. 49:953B. Copies of the emergency rule are available for public examination at the Department of Health and Human Resources, Office of Family Services, 755 Riverside North, Baton Rouge, Louisiana.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

Rules

RULES

Department of Commerce Board of Certified Public Accountants

Section 77. Certificates.

1. Experience Requirements.

A. Applicants for a Certified Public Accountant (CPA) certificate shall be required to have at least one year of accounting experience, which may be completed before or after sitting for the examination. This accounting experience shall be full-time employment on the regular professional staff of a practicing CPA or PA (Public Accountant) of Louisiana, or a practicing CPA of another state, the District of Columbia or a possession of the United States; or such other accounting experience as, in the opinion of the Board, is equivalent to the foregoing. The Board shall not grant nor issue a CPA certificate to the successful candidate unless and until the experience requirement has been met.

B. In lieu of the above, all governmental and private industry experience is considered on an individual case basis, except that the following approved guidelines have been established for equivalency of experience:

(a) Federal.

(1) General Accounting Office—At least one year at grade GS-9 or higher as a field agent with audit responsibilities.

(2) Internal Revenue Service—At least one year at grade GS-9 or higher as a field agent with income tax responsibilities.

(3) Department of Transportation, Federal Highway Administration—At least one year at grade GS-9 or higher with audit responsibilities.

(4) United States Postal Service, Auditing Department—Attainment of Level 21 and two years experience in performing financial audits.

(b) State of Louisiana.

(1) Louisiana Department of Revenue—At least one year as Revenue Agent IV. Experience as a Revenue Agent I, II and III will be considered on an individual case basis.

(2) Louisiana Public Service Commission, Auditing Division—At least two years in one or more of the following positions: Public Accounts Examiner II, III and IV.

(3) Louisiana State Legislative Auditor—At least one year in one or more of the following positions: Governmental Auditor I through V, Legislative Audit Area Supervisor, Legislative Audit Chief Field Auditor, Legislative Review Auditor, Legislative Audit Chief Review Auditor.

(c) City.

(1) Baton Rouge—At least one year in one or more of the following positions: Auditor 1, 2 and 3.

(d) Teaching experience—Teaching experience at an accredited university or college is acceptable if both of the following requirements are satisfied.

(1) A person must be a full-time teacher of accounting subjects. Full-time is defined as teaching at least nine hours during a regular semester.

(2) The teaching experience must aggregate at least thirty semester hours of accounting subjects which shall include at least three hours of each of the following: Intermediate Accounting I, Intermediate Accounting II, Advanced Accounting, Cost Accounting, Income Tax Accounting, Auditing.

(e) The above are not intended to be all inclusive.

Lydia F. Parek, Executive Director
Board of Certified Public Accountants

RULES

Department of Commerce Real Estate Commission

Rule 2. Examinations—Examinations shall be held, after due notice thereof, at such time and place to be designated by the Louisiana Real Estate Commission.

A. In order to be permitted to take a license examination, an applicant must obtain an admittance authorization by complying with the provisions of Rules 1 and 3.

B. Examinations shall be taken only on the date and time specified in the admittance authorization.

C. Admittance authorization and photographic evidence of applicant's identity (e.g. driver's license) shall be presented to examination monitor by the applicant before an examination will be administered.

D. Applicants who fail to appear for examination, as specified in their admittance authorization, shall forfeit all fees.

E. Applicants who are disqualified, for any reason, on an examination shall forfeit all fees.

F. Applicants who are disqualified on an examination and/or applicants who fail to appear to take the examination are permitted to reapply provided that they remit new license and examination fees and obtain an admittance authorization.

G. Applicants who fail to pass their initial license examination shall forfeit all fees. However, they are allowed to take a second examination, at the next scheduled examination period only, provided that they remit a new examination fee and obtain an admittance authorization.

H. Applicants who fail to pass their second license examination shall forfeit all fees and their applications shall be returned. Second time examination failures shall not be allowed to reapply for license for a period of not less than six months following the date of their last examination failure.

I. Applicants are permitted to use calculating devices during examinations. Applicants are not allowed to possess or utilize any reference material during examination.

J. Examinations will be administered only at designated examination centers, on the prescribed date and at the prescribed time as shown on admittance authorization, and only after all of the requirements of this section have been met.

* * * *

Rule 37. Course Reporting—Certified real estate schools, with the exception of Louisiana colleges and universities, shall designate their courses as Real Estate I (thirty hour statutory requirement for salesmen), Real Estate II and III (balance of ninety hour statutory requirement for brokers).

A. For each course it conducts, each school shall furnish:

1. The exact location, time and date schedule,
2. A list of all instructors participating in the course and a list of subjects to be covered.

The information required by Section A shall be filed by the school to be received by the Commission at least ten days prior to the date of beginning of a course.

B. Within ten days following the completion of each course conducted, all schools shall furnish:

1. A notarized affidavit containing the names and addresses of those persons satisfactorily completing course(s),
2. The signatures of all participating instructors along with a list of subjects taught by each instructor and the number of hours devoted to said subjects.

Violation of the provisions of this Section by any school (its owners or instructors), or any false certification or other misrepresentation of actual attendance records shall be construed as contempt of the Commission and shall be grounds for immediate revocation of school and/or instructor certification.

Stanley Passman, Executive Director
Real Estate Commission

RULES

Board of Elementary and Secondary Education

Rule 3.03.03

The Board adopted the following policy in order to eliminate sex biases and sex stereotypes in vocational-technical education programs:

1. All courses or programs are available to persons of both sexes.
2. Females and males are encouraged to enroll in nontraditional courses, e.g., females enroll in electronics, trade and industrial, or males enroll in such courses as home economics, nursing, shorthand, etc.
3. Students of both sexes are recruited for nontraditional courses or programs.
4. Special courses are not designed solely for males in home economics or any other programs. In some instances, course titles make a difference.
5. No student is denied the opportunity to become a member of or participate in the vocational student organization, for the specific program in which the student is enrolled, based on sex or race.
6. Instructional materials are reviewed for sexism; if sexist language is used, when new materials are developed, sex neutral or sex fair language should be used.
7. Career testing materials are free of bias; (interest inventories).
8. Counseling practices and procedures are void of bias, stereotyping, or discrimination. Special services should be offered which are designed to assure equal access or reduce bias or stereotyping.

Rule 3.01.02

This policy replaces present policy in effect.

The Board approved for final adoption *Title IV Fiscal Year 1979 Annual Program Plan*. The Department of the State Register has elected not to publish this plan in accordance with R.S. 49:954.1C. Copies of the plan may be obtained from the Board of Elementary and Secondary Education, Box 44064, Baton Rouge, Louisiana 70804.

Rule 3.01.70v(20)

The Board approved for final adoption an amendment to page 42 of Bulletin 746, *Louisiana Standards for State Certification of School Personnel*, to provide that full-time supervisors of school

libraries must hold a master's degree in library science instead of a "master's degree" as now stated. The Board also directed that all persons presently employed as supervisors of school libraries shall be automatically so certified. The Board further stated that this new provision becomes applicable to all new supervisors in the 1978-79 school year.

Rule 3.03.05

The Board adopted the following special fee schedule for non-resident students attending the Louisiana Marine and Petroleum Institute in Chauvin, Louisiana as follows:

Master or Mate	\$50.00
Ocean Operator	35.00
Towing Vessel Operator	
International/Inland	35.00
Inland/Western Rivers	35.00
Inland Only	20.00
Western Rivers Only	20.00
Inland and Motorboat Operator	20.00
Able Seaman and Deckhand	20.00
Chief or Assistant Engineer/Mineral & Oil	35.00
Oiler	20.00
Tankerman	10.00

Rule 4.02.04 and 4.03.50

The Board adopted a grievance procedure for postsecondary vocational-technical schools and State special schools. Rule 4.02.04 applies to special schools and Rule 4.03.50 applies to vocational-technical schools under the Board's jurisdiction.

Grievance Procedure for Postsecondary Vocational-Technical Schools and State Special Schools

Part I.

(A) General Provisions.

The principle of due process inherent in our State and Federal Constitutions and laws shall be employed so that equal protection of the law is afforded to all individuals and institutions involved.

The grievance procedure shall be implemented in a fair and impartial manner equitable to all parties. The application of due process is no more than the application of common sense and fair play.

The primary function of our institutions is to educate. Therefore, any grievance procedure that encourages and fosters the conversions of our institutions into judicial forums is self defeating and hence should be avoided whenever possible.

For this reason, informality must be a preliminary step. Formal procedure is not a necessary adjunct to due process. It should be employed only after all other measures have been exhausted.

Satisfactory resolution of a complaint shall be pursued through informal means. If the complaint is not resolved through informal channels, then the complainant may initiate the appropriate grievance procedure through the chain of command within the school.

Discussions, conferences, or hearings pertaining to grievances will be held during the aggrieved party's nonteaching time, if an instructor, or on nonclass time, if a student, unless otherwise agreed upon by both parties.

Any procedures, formal or informal, may be terminated by mutual consent or at any step satisfactory to the grievant.

Grievances related to special education evaluation and placement should be processed according to the specific procedure outlined in the current *Special Education State Plan* or the procedure herein outlined.

Classified employees shall follow Civil Service grievance procedures. The employee shall not interrupt his/her work schedule to present a grievance. A meeting should be arranged that is mutually convenient.

Part II. Definitions of Grievance.

Grievance is defined as follows:

(A) A complaint or disagreement by a staff member and teacher, student, or parent (if applicable) at a postsecondary vocational-technical school or State special school under the

jurisdiction of the State Board of Elementary and Secondary Education alleging:

(a) A violation, misinterpretation, or misapplication of a specific policy or directive of the State Board of Elementary and Secondary Education or the State Department of Education or the special, or vocational technical school.

(b) Discrimination on the basis of national origin, sex, economic status, race, religion, physical or mental handicap, or other exceptionality.

(c) Any other grievance. No distinction is to be made between a complaint or grievance at the informal level of procedure. Upon application for a formal hearing all complaints and disagreements become formal grievances.

Part III. Postsecondary Vocational-Technical Schools and Special Schools.

Grievance procedure for unclassified staff, students, and parents of students.

(A) Informal Procedure.

A sincere attempt shall be made to resolve any grievance by scheduling a meeting between the grievant and the appropriate school personnel.

If the grievance involves discrimination on the basis of sex, race, or handicap, then the grievant shall go to the appropriate coordinator (Title IX, Title VI, Section 504) for an oral discussion of the grievance.

Students:

Step I. If the grievance involves a student and instructor/teacher, an oral discussion shall be arranged between the student and instructor/teacher.

Step II. If this procedure offers no solution, then the student shall request and shall receive an appointment with the Director/Superintendent.

Step III. If the grievance is not resolved at this level, then and only then can formal proceedings be initiated.

Parents of Students:

All complaints and grievances by a parent shall initiate with the Director/Superintendent.

The Director or Superintendent on grievances presented by a student or a parent, must advise the parties of his/her disposition within five days of the conclusion of the conference.

For both students and parents, this remedy shall be exhausted and only then can formal procedures commence.

Instructors/Teachers:

Step I. An instructor/teacher shall go to his/her immediate supervisor to present his/her grievance in an informal manner.

Step II. If this procedure offers no immediate solution, then the grievant is entitled to an appointment with the Director/Superintendent to discuss informally the grievance. The Superintendent or Director shall inform the grievant of his decision within five school days. From this step on, formal procedure shall be in order.

(B) Formal Procedure in Vocational-Technical Schools for grievances.

All formal procedures shall be initiated by a written grievance presented to the Director/Superintendent within five school days following the disposition of the last informal conference.

Each formal statement must contain the following:

(a) The statement of the facts.

(b) The specific policy or policies violated or a general statement of grievance that is in contention.

(c) The names and addresses of all parties to be present at the hearing as witnesses or representatives of the aggrieved party. All grievances thus formally initiated must bear the signature of the aggrieved party. No evidence shall be introduced other than evidence relevant to the facts and issues formally presented and contained in the written application for formal hearing.

(d) All formal grievances must be transmitted by the United States Postal Service, certified mail, return receipt requested.

(e) Once a formal grievance has been filed, the institution, the grievant, and the person against whom the grievance has

been filed and all other legal parties involved shall have the right of representation.

(f) All parties, upon mutual agreement may extend the deadlines herein set.

(g) The Superintendent/Director of a particular school may refer the formal application to a grievance committee for hearing and recommendation or, if not applicable, he/she may after the hearing, inform the grievant of his/her findings not later than ten school days after the findings of the institutional hearing committee are submitted. The grievant shall have ten school days after receipt of the written disposition from the Superintendent/Director to appeal the disposition to the State Board of Elementary and Secondary Education. All documents and copies must be forwarded simultaneously to the school director involved and to the State Board of Elementary and Secondary Education through its Executive Director via certified mail.

(h) An appeal hearing shall be held by the State Board within a period not to exceed sixty days from receipt of the appeal. This period can only be extended by mutual consent of the appellant and the State Board of Elementary and Secondary Education

A written disposition of the grievance appeal shall be rendered by the State Board within twenty school days from the date of the appeal hearings unless an extension is agreed to by all parties. The decision of the State Board may be appealed to the courts.

Part IV.

(A) Louisiana State Special Schools—Special Provisions for a Grievance Concerning Students or Parents Relating to Evaluation and Educational Placement.

The following steps shall be taken:

Step I. If the student or parent grievant is not satisfied with the resolution of the complaint through the chain of command within the school, inclusive of the Superintendent's/Director's decision, then a formal grievance, in writing, must be presented to the Superintendent/Director.

Step II. A hearing must be arranged by the Superintendent/Director within ten days after receipt of the written grievance. The hearing shall be conducted by the school's duly appointed and approved impartial hearing officer.

Step III. A written disposition of the grievance shall be rendered by the impartial hearing officer within five school days after the hearing.

Step IV. After receipt of the written disposition, the grievant will have ten school days to request a review of the hearing by the State Department of Education before an impartial review officer who will render a written disposition within five school days after the hearing.

Step V. The decision of the review officer may be appealed to the State Board of Elementary and Secondary Education.

Step VI. Decisions made by the State Board of Elementary and Secondary Education may be appealed through the courts.

(B) Formal Procedure for Grievances in Special Schools.

Step I. If the grievant is not satisfied with the results of the informal procedure, a written grievance must be presented to the Director/Superintendent within five school days following the informal conference.

The hearing shall be conducted by the school's duly appointed and approved impartial hearing officer or a duly appointed grievance committee. A written disposition of the grievance shall be rendered by the hearing officer or committee within five school days after the hearing.

(a) Each formal statement of a grievance must contain the question(s) at issue, a statement of facts, the specified policy(ies) or general grievance that is in contention, the relief requested, the names and addresses of all parties to be present at the hearing as representatives or witnesses of the aggrieved party(ies). The matters which may be introduced at any step of this grievance procedure shall be those contained in the initial written grievance. All grievances thus presented must bear the signature of the aggrieved party.

(b) All grievances beyond the school level must be transmitted by the United States Postal Service, certified mail, return requested.

(c) Once a grievance has been filed, the grievant and the person against whom the grievance has been filed have the right to representation, if they so desire, at each step of the formal grievance procedure.

(d) The parties may, upon mutual agreement, in writing, extend all time deadlines.

(e) Failure to communicate a decision at any level of this procedure within the specified time deadlines, except as set forth in (d) above, shall permit the grievance to be advanced to the next higher level.

Step II. After receipt of the written disposition, the grievant will have ten school days to request a review of the hearing, if he so desires, by the State Department of Education, who will provide a reviewing official. The official, he/she, will:

(a) Examine the entire hearing record.

(b) Insure that the procedures at the hearing were consistent with the requirements of due process.

(c) Afford the parties an opportunity for oral argument.

(d) Render an independent decision in writing within five school days after the completion of the review.

Step III. The decision of the State Department of Education reviewing official may be appealed to the State Board of Elementary and Secondary Education.

Step IV. Decisions made by the State Board of Elementary and Secondary Education may be appealed to the courts.

(C) For grievance concerning students/parents relating to student life/nonacademic concern, the following steps shall be taken:

It shall be the policy of a school to develop and maintain an appropriate atmosphere for students/parents in the nonacademic area. In furtherance of this policy, when a student/parent believes that he/she has complaints/concerns relative to student life/nonacademic matters, i.e. dormitory program, conditions, health care, dietary problems, extracurricular activities, and discipline, he/she should have available a well defined procedure by which this grievance can be considered.

Step I. The student/parent may present the grievance to his/her Department Head/Head Cottage Parent within five calendar days after the incident which caused the student/parent to be aggrieved. A written statement as to the grievance will be taken from the student/parent.

The Department Head/Head Cottage Parent will give an answer in writing to a grievance within five calendar days after receiving the grievance.

The grievance will be presented at a time mutually convenient to the Department Head/Head Cottage Parent, student/parent. The involved school official will be expected to give the meeting his/her prompt attention.

Step II. If the student/parent is not satisfied with the decision of the Department Head/Head Cottage Parent, the student/parent may within five calendar days of the receipt of such decision submit the grievance in writing to the Director of Student Life or an appropriate school official responsible for student life/nonacademic matters.

The appropriate school official will then discuss the grievance with the student/parent representative (lawyer, social worker, or friend) and render his/her decision in writing five calendar days thereafter.

Step III. If the parent/student is not satisfied with the decision of the Director of Student Life, the Student/parent may within ten calendar days submit the grievance to the Superintendent of the school. The Superintendent shall meet with the student/parent and their representative(s) within ten calendar days of the receipt of the written grievance and shall render his/her decision within ten calendar days thereafter.

Part V. Grievance Procedure for all Vocational-Technical and Special Schools Concerning Discrimination Based on Race, Sex, National Origin, and Handicap.

A. General Principles.

All informal steps should be employed to resolve a complaint within the chain of command. The use of duly appointed grievance committees are to be encouraged in this sensitive area. Proceedings may end at any step upon mutual agreement or upon aggrieved party's satisfaction.

B. Informal Grievance Procedure.

(1) In each incident of complaint concerning discrimination, the appropriate compliance officer shall be contacted for assistance. The officer shall attempt to resolve the complaint by involving all parties concerned towards the resolution of the complaint, concern, or problem.

(2) If the complainant is not satisfied with the effort of the officer in this step, he/she may present the complaint to the school.

C. Formal Grievance Procedure.

(1) If the complainant is not satisfied with the resolution of the complaint through the chain of command within the school, inclusive of the Superintendent/Director, a formal grievance in writing, must be submitted to the Superintendent/Director, specifically designating the alleged discriminatory acts. A copy of this formal grievance shall be submitted to the appropriate school coordinator/compliance officer.

(2) A hearing shall be arranged by the Superintendent/Director within ten days after receipt of the written grievance. The hearing shall be conducted by the approved impartial hearing officer or a duly appointed and approved impartial grievance committee.

(3) A written disposition of the grievance shall be rendered within five school days after conclusion of the hearing.

(4) A written appeal may be filed with the State Board of Elementary and Secondary Education. If applicable, the appeal may be referred by the State Board to the Department of Education. The written appeal shall be filed within ten school days after the date the decision was rendered by a school's hearing officer or grievance committee. The written appeal shall be signed by the appellant and shall contain the complete records and documents of the prior proceeding. The State Board shall notify all parties, in writing, of the scheduled date of the hearing.

(5) Decisions rendered by the Board shall be transmitted in writing to all parties.

Part VI. Policies and Guidelines.

(1) Grievances are generally the product of misunderstanding between parties. Therefore, the Board of Elementary and Secondary Education, the Department of Education and the administration of each institution has the responsibility to lessen the probability of the employment of these procedures by making their policies clear and available.

(2) Each school shall maintain current copies of all documents (national, State, and local) which govern or affect them, and shall make them easily accessible through announcements and publications to all staff members, students, and parents. When applicable, the documents shall be provided in native language or mode of communication.

(3) The locale, population, and administrative structures of institutions vary throughout the state. Therefore, flexibility of procedure is permissible within the confines of due process. Legal counsel should be sought when in doubt.

(4) A certain degree of uniformity is essential for an efficient and fair administration of justice. The application of due process requires certain fundamental procedures. Therefore, all procedures should be governed by general principles outlined in the following provisions: Part I A; Part II A; Part III A, B (a, b, c, d, e, f, g, h).

(5) All appeals to the State Board of Elementary and Secondary Education shall be uniform and timely.

Unless otherwise agreed to by the parties, the following time periods shall govern.

(a) The grievant shall have ten school days after receipt of the written disposition from the proper school authority to file the appeal with the Board of Elementary and Secondary Education.

(b) The appeal hearing shall be held by the State Board no later than sixty school days from receipt of the appeal.

(c) A written disposition of the grievance shall be rendered by the State Board within twenty school days from the date of the appeal hearing.

(6) Grievance committees in all schools are encouraged as an additional safeguard to compliance with due process. They are not a necessary adjunct. In civil rights cases, they are herein urged as an important adjunct.

James V. Soileau, Director
Board of Elementary and Secondary Education

RULES

Department of Health and Human Resources Board of Embalmers and Funeral Directors

Rule 4. Funeral Establishments

Section D. (2) Each funeral establishment licensed by this Board to conduct the business of funeral directing as defined in R.S. 37:831-861 must have as its owner, partner, or shareholder, a person or persons licensed by this Board.

* * * *

Rule 5. Advertising

Section B. It is prohibited for a licensed funeral establishment to authorize advertising by others not licensed by this Board, when such advertising offers services and/or merchandise primarily performed and offered by a licensed funeral director/embalmer and establishment, as defined in R.S. 37:831-861. Such advertising shall be considered as an inducement when used along with or in conjunction with plans, merchandise, pre-need plans or the like which are normally sold by others. The above rule does not, however, prohibit a licensed funeral establishment from advertising an affiliation with an insurance company.

* * * *

Rule 7. License Renewal and Reinstatement

Section 4. NSF Checks. When a licensed funeral establishment or individual licensee renews the license it shall either be paid in cash, check, or money order. If, for any reason, the check or money order received is not paid by the bank for nonsufficient funds (NSF) or any other reason, the licensee or the firm forwarding the funds shall be assessed a penalty of ten dollars for individual license and twenty-five dollars for establishment license. In either event, the license fee and penalty must be in the office within ten days after the notice of NSF or nonpayment is received. In the event the money is not received within the ten day period, the regular delinquent assessment will be levied.

Section 5. Retired Licensees. The Board, after full review of a bona fide retired or disabled licensee applicant who has been licensed by this Board at least twenty years, has reached the age of legal retirement, or is disabled and is no longer actively involved in the professional pursuit of funeral directing or embalming and is completely separated from a licensed establishment doing business in this state, may permit a retirement/disabled classification that would waive the assessment fee for that particular year. This classification must be renewed each year upon proper application after review and passage by a majority vote of the Board.

Lloyd E. Eagan, Secretary
Board of Embalmers and Funeral Directors

RULE

Department of Health and Human Resources Office of Family Services

Editor's Note: The Department of the State Register has elected not to publish the complete text of these rules in accordance with R.S. 49:954.1C. Copies of the revised Income Standards and Basis of Issuance may be obtained from the Office of Family Services as indicated below.

The Department of Health and Human Resources, Office of Family Services, has adopted rules and regulations regarding revised Income Standards and Basis of Issuance in the Food Stamp Program effective July 1, 1978 in accordance with Federal regulations as specified in *Federal Register*, Volume 43, Number 97, Pages 19985 through 19986 of Thursday, May 11, 1978. The revisions provide food stamp recipients with a cost of living increase.

Copies of the revised Income Standards and Basis of Issuance may be obtained without cost at the following address: Food Stamp Program, Office of Family Services, 333 Laurel Street, Room 301, Box 44065, Baton Rouge, Louisiana 70804, telephone number 389-2631.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources.

RULE

Department of Health and Human Resources Office of Family Services

Editor's Note: The Department of the State Register has elected not to publish the entire Comprehensive Annual Services Program Plan in accordance with R.S. 49:954.1C. Copies of the Plan may be obtained from the Office of Family Services as indicated in the summary below.

The Department of Health and Human Resources has adopted the Title XX Comprehensive Annual Services Program Plan (CASP) for the program year July 1, 1978, through June 30, 1979.

The CASP provides for social services to individuals and families which are directed toward the goals of achieving or maintaining self-support and self-sufficiency; preventing or remedying neglect, abuse, or exploitation; providing community or home based care; and securing referral or admission of institutional care.

The services included in the plan are: adoption; counseling; day care for adults and children; education, training and treatment; employment services; family planning; foster care; health related; home delivered and congregate meals; home management; homemaker and chore; housing improvement; information and referral; protective services for adults and children; recreational; residential; and transportation services.

The following persons are eligible for services:

1. Recipients of Aid to Families with Dependent Children (AFDC) and those persons whose needs were taken into account in determining the needs of AFDC recipients.

2. Recipients of Supplemental Security Income Benefits or State supplemental payments.

3. Persons whose gross monthly income is not more than 57.8 percent of the State's median income for a family of four adjusted by family size. A family of four with a gross monthly income of \$741 is eligible for services.

4. All persons are eligible for protective services and information and referral services regardless of their income.

5. Persons are eligible on a group basis for any service (except child day care services) provided that seventy-five percent of the group are members of families with monthly income of not more than ninety percent of the State's median income, adjusted for family size.

Differences Between Proposed Plan and Final Plan

The percentage of the State's median income used to establish eligibility for services has been changed from 58.1 percent to 57.8 percent to reflect the latest United States Poverty Level Figures and the 1977 Statistical Report on Medical Care. The monthly income eligibility level is decreased for a family of four from \$744 to \$741.

Additional groups have been made eligible for services as a result of sufficient documentation to prove group eligibility. In addition, some currently approved groups have been expanded to permit additional persons to be served on a group basis.

The service of education, training and treatment has been expanded so that English as a second language when not otherwise available free may be provided to new refugees entering the state.

Ranking of service priorities has been changed to reflect results of the statewide needs assessment.

The service of home delivered and congregate meals reflects that in District VIII, Madison Parish, one dollar per day is charged each participant to supplement the cost of raw food which is partially met by Title XX.

Summarized standards are included for foster homes for adults and children in mental retardation programs to comply with P.L. 94-566.

The Title XX State Plan (CASP) for the program year July 1, 1978, through June 30, 1979, has been published and is available without charge upon written or telephone request to Telephone 1-800-272-9868 (8:00 a.m. to noon and 1:00 p.m. to 5:00 p.m.) Write: Public Assistance Line, Division of Administration, Box 44095, Baton Rouge, Louisiana 70804.

The complete plan is available for public review and/or distribution at each parish office and sub-office of the Office of Family Services, Monday through Friday from 8:30 a.m. to 4:00 p.m. Applications for services will be accepted at the above offices during the same hours.

Public comments are available for public review at the Office of Family Services, 755 Riverside North, Policy and Planning Section, Room 246, Baton Rouge, Louisiana 70804.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULE

Department of Health and Human Resources Office of Family Services

The Department of Health and Human Resources, Office of Family Services, has adopted revisions to the *Standards for Payment to Skilled Nursing Facilities and Intermediate Care Facilities I and II Participating in the Louisiana Medical Assistance Program (Title XIX)* to read as follows:

Section I, Subsection B (5) a.

If the facility is in substantial compliance at the time of the surveys, the Licensing and Certification Section certifies that the facility is in compliance for an initial period of six months, with complete resurvey scheduled prior to expiration of that period. Professional medical review is to be conducted by the Office of Family Services (OFS) on the site before the end of the initial

certification period to assure that patients are receiving the proper care and services.

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Section I, Subsection B (6).

Facility Which Has Been Involuntarily Terminated. After the involuntary termination of a facility or nonrenewal of its agreements, the facility cannot again participate as a Medicaid provider unless: (1) The reasons for the termination or nonrenewal no longer exist, and (2) there is reasonable assurance that they will not recur. Normally, to be eligible for participation, the facility should demonstrate compliance for a sixty-day period before it will be allowed to participate. The case will be processed in the same way that an initial certification is handled except for physical plant standards, which may be the same as for existing facilities. Professional medical review must reflect that patients are receiving proper care and services before a decertified facility is allowed to again participate in the program.

* * * *

Section II, Subsection H.

The facility is not to bill recipients or responsible parties for nursing care or medical services provided for in medical assistance vendor payment. The facility is responsible for arranging for services, not included in nursing home vendor payment, through other State medical assistance (Title XIX) resources such as drugs, transportation, special appliances, etc. If the service is not available under the Medical Assistance Program, the facility is responsible for arranging for the service through other resources, but is not required to assume responsibility for financial arrangements or charges for such services. At the facility's option, said facility may provide any of these services which shall be included in the cost report as allowable costs.

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Section III, Subsection B.

The facility is to request payment not to exceed fifteen days per hospitalization for a recipient who is hospitalized for a temporary period or to exceed eighteen days per calendar year when a recipient is temporarily absent from the facility for a leave of absence.

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Section III, Subsection G.

The facility is to order from pharmacy of recipient's choice at least a one-month supply of medications unless the attending physician specifies a smaller quantity for a special medical reason. If a one-month supply is less than one hundred unit doses, one hundred unit doses may be ordered.

* * * *

Section VIII, Subsection A (1).

a. Each person having direct or indirect ownership interest of five percent or more in the facility.

b. Each owner (in whole or in part) with a five percent interest in any property, assets, mortgage, deed of trust, note or other obligation secured by the facility.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULES

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

The Department of Health and Human Resources, Office of Family Services has adopted adjustments in the medically needy eligibility standards (urban and rural). These adjustments will parallel the increase in Aid to Families with Dependent Children (AFDC) flat grant payments. Therefore, effective on the date of the adoption of these adjustments, all medically needy computations shall be based on the new amounts regardless of which months are considered for medically needy coverage. This revision will allow the Medical Assistance Program to comply with Federal regulations, 42 CFR 448.4.

Medically Needy Income Eligibility Standard

Rural Parishes

Number of Persons	AFDC Grant	Monthly Eligibility Standard	Quarterly Eligibility Standard
1	\$ 48	\$108	\$ 324
2	90	125	375
3	127	175	525
4	159	217	651
5	189	258	774
6	216	292	876
7	245	333	999
8	272	367	1101
9	298	400	1200
10	325	433	1299
11	353	475	1425
12	382	517	1551
13	413	558	1674
14	443	592	1776
15	474	633	1889
16	504	675	2025
17	535	717	2151
18	565	758	2274

Urban Parishes

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

Number of Persons	AFDC Grant	Monthly Eligibility Standard	Quarterly Eligibility Standard
1	\$ 53	\$125	\$ 375
2	101	142	426
3	140	192	576
4	172	233	699
5	203	275	825
6	231	308	924
7	258	350	1050
8	286	383	1149
9	312	417	1251
10	338	458	1374
11	367	492	1476
12	396	533	1599
13	424	567	1701
14	455	608	1824
15	485	650	1950
16	518	692	2076
17	543	725	2175
18	578	775	2325

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULES

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

The Department of Health and Human Resources, Office of Family Services, has adopted policy 19-220 E of the *Medical Assistance Manual*, Chapter XIX, which defines vendor payments for physician services in a teaching facility and 19-222 A (5) of the *Medical Assistance Manual*, which designates the method of reimbursement the Office of Family Services will use for payment of these services.

The new policy reads as follows:

19-220 E. Vendor Payments for Physician Services in a Teaching Facility.

Federal regulations permit financial participation in the cost of direct patient care rendered by an "attending physician." The physician must, as demonstrated by performance of the activities listed in 19-220 E (1) (a) and (b), render sufficient personal and identifiable medical services to the patient to exercise full, personal control over the management of the portion of the case for which a charge can be recognized. The services to the patient in the teaching facility must be of the same character, in terms of the responsibilities to the patient that are assumed and fulfilled, as the services that would normally be rendered to paying patients.

The term "physician" does not include any resident or intern of the teaching facility regardless of any other title by which he is designated or his position on the medical staff.

(1) Conditions Which Must Be Met for a Teaching Physician to Be Considered an Attending Physician.

(a) To be the "attending physician" for an entire period of hospital care, the teaching physician must as a minimum:

(i) Review the patient's history, the record of examinations and the tests in the institution, and make frequent reviews of the patient's progress; and

(ii) Personally examine the patient; and

(iii) Confirm or revise the diagnosis and determine the course of treatment to be followed; and

(iv) Either perform the physician's services required by the patient or supervise the treatment so as to assure that appropriate services are provided by interns, residents or others that the care meets a proper quality level; and

(v) Be present and ready to perform any service performed by an attending physician in a nonteaching setting when a major surgical procedure or a complex or dangerous medical procedure is performed; for a physician to be an "attending physician" his attendance as an attending physician must be necessary (not superfluous as where, for example, the resident performing the procedure is fully qualified to do so) from a medical standpoint; and

(vi) Be recognized by the patient as his personal physician and be personally responsible for the continuity of the patient's care, at least throughout the period of hospitalization.

(b) To be the "attending physician" for a portion of a patient's hospital stay. A teaching physician may be held to be the attending physician for a portion of a patient's hospital stay:

(i) If the portion is a distinct segment of the patient's course of treatment (e.g., the preoperative or postoperative period) and of sufficient duration to impose on the physician a substantial responsibility for the continuity of the patient's care; and

(ii) If the physician, as a minimum, performs all of the activities described above with respect to that portion of the stay; and if the physician is recognized as the patient's

physician fully responsible for that part of the stay. If a teaching physician is not found to be the attending physician with respect to a portion of a patient's stay, he may not be reimbursed for any service provided to the patient for that portion of the stay unless it is an identifiable service that he personally rendered to the patient.

(2) Demonstration of "Attending Physician" Activities through Documentation in Patient's Chart.

Performance of the activities referred in 19-220 E. (1) (a) and (b) must be demonstrated, in part, by notes and orders in the patient's records that are either written by or countersigned by the physician. The records would also have to show that the physician personally examined the patient and determined the course of treatment to be followed. Frequent reviews of the patient's progress by the physician would be established by the appearance in the records of the physician's signed notes and/or countersignature to notes with sufficient regularity that it could be reasonably concluded that he was personally responsible for the patient's care.

Treatment procedures should be documented in the records with an indication that shows who actually performed the services. With respect to complex or dangerous medical procedures, including all major surgery, the record should show that the physician either performed the procedure or was present and ready to take over if necessary.

The medical record should include in it sufficient information on the services rendered by an "attending physician" so that when verification is necessary it is possible to determine with reasonable accuracy whether the physician was the "attending" throughout the stay or for some identifiable portion of the services or, if not the attending, should be reimbursed for personal services rendered.

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19-222 General Information on Reimbursement and Billing Procedures.

A. Reimbursement.

Reimbursement to individual medical practitioners is based on Federal regulations pertaining to reasonable charges.

(5) As stated in 19-220 E (2) (b), the teaching physician may be held to be the attending physician for a portion of a patient's hospital stay. Reimbursement for the combined segments of patient care may not exceed the rate set for that physician had he/she been the attending physician for the entire service.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULE

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

The Department of Health and Human Resources, Office of Family Services, has adopted the following amendment to policy in the vendor payment day care program.

The vendor payment made by the Office of Family Services for day care services covers the full cost of care, including transportation that may be provided by the center. Day care centers shall not charge any fees to parents of Office of Family Services vendor payment children.

If a center's monthly rate of care is less than the maximum being charged for transportation, it may be possible to adjust the vendor payment rate to cover the cost of transportation. However, in no case shall the vendor payment exceed \$92.40.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULES

**Department of Health and Human Resources
Office of Health Services and Environmental Quality**

The Department of Health and Human Resources, Office of Health Services and Environmental Quality, through its Sanitarian Services Section, has adopted the following changes to the Louisiana State Sanitary Code. These changes are being made pursuant to new State law requirements regarding mass gatherings.

11.3.2 Mass gathering means a group of five hundred or more persons assembled together for a meeting, festival, social gathering, or other similar purposes.

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11.9.1(b) If water is used for drinking, washing, flushing toilets, and showers when required, then water should be provided at a rate of at least fifteen gallons per person per day.

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11.10.1(a) Toilets—at the rate of one for each two hundred persons or fractional part thereof.

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11.10.5 Water points or drinking fountains shall be of approved type, conveniently accessible and well identified. All watering points shall have an elevation of at least twenty-four inches and shall be securely fixed. Watering points shall be provided at a rate of one for every two hundred persons.

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11.10.6 Showers—at the rate of not less than one per two hundred fifty persons shall be provided at gathering when those in attendance are expected to remain for forty-eight hours or longer. Showers shall be designed in accordance with the definition specified in Paragraph P6.9 of Chapter XA of the Louisiana State Sanitary Code.

William A. Cherry, M.D., Secretary
Department of Health and Human Resources

RULES

**Department of Health and Human Resources
Office of the Secretary**

Editor's Note: The Department of the State Register has elected not to publish the forms accompanying this manual, nor the Chart of Accounts and United Way of America Accounting Coding System (UWAACS). These may be obtained from the Department of Health and Human Resources, 755 Riverside North, Box 3776, Baton Rouge, Louisiana 70821. This manual will become effective July 1, 1978.

**Facility Manual for Facilities Where
Health and Human Resources Department
Funds Are Used to Care for
Handicapped Persons**

Introduction

The Department of Health and Human Resources currently places clients whose needs cannot be appropriately met through other State programs in private residential facilities and day programs located throughout the state. Placement may be under the supervision of any one of several different agencies of the Department.

Children, youth, and other handicapped individuals placed in such programs include three major, broad client categories: (1)

children and youth who are legally adjudicated abandoned, neglected, and/or abused, and those in need of care due to the inability of the parent or caretaker to adequately provide for them, (2) adjudicated delinquents and children in need of supervision, and (3) children, youth, and other individuals who are handicapped physically, mentally, emotionally, or neurologically to such an extent that they cannot satisfactorily participate in community living.

The determination of appropriate placement for any client in any of these broad categories is made by the placing agency within the Department of Health and Human Resources or by a court, and all referrals for placement must originate through one of the placing agencies of the Department or through a court of competent jurisdiction. Private facilities from which placement services are purchased retain the right of acceptance or rejection of the clients referred by the Department's supervising agencies or by courts of competent jurisdiction, with the exception of emergency shelter care facilities which do not have the right of rejection.

The procedures and proposed rules set forth herein have been developed to assure an equitable, cost-related reimbursement for the services purchased from private providers for the care and treatment of these clients. The foundation of these procedures rests upon a classification of each facility, and each distinct program within a facility, based on the level of care required by the residents and provided by the facility and/or by a distinct program within a facility.

Major objectives of the Department of Health and Human Resources in developing and proposing to implement these procedures are (1) to provide an incentive to the private sector to expand and improve the quality and quantity of services available, and (2) to accommodate the presently existing variety of treatment modalities needed to provide appropriate care for the Department's clients.

These procedures shall apply to all facilities wherein Department funds are spent for the purchase of services for the Department's clients, regardless of the procedures whereby a facility is approved for funding. Certain facilities within the state are required to adhere to licensing regulations established and administered by the Department of Health and Human Resources. All facilities which care for the handicapped individuals are required to conform to the *Minimum Standards for Certification of Facilities*. These procedures apply to facilities in both categories.

While these various standards may vary in certain respects, each has as an objective the assurance of a high quality of the overall level of care. Consequently, each approval procedure can accommodate the development of cost-related reimbursement procedures. However, in conjunction with the development of a uniform rate structure, as herein proposed, efforts will continue to systematize the licensing/certification/approval procedures of various agencies of the Department of Health and Human Resources or courts of competent jurisdiction which are affected by these rate provisions.

Levels of Care

A description of the various levels of care which will be utilized for classification purposes appears below. Level of care classifications will apply to all facilities and will identify program requirements.

Each facility which is required to conform to the *Minimum Standards for Certification of Facilities* will be visited during each fiscal year by a certification representative to determine compliance with previously established standards for certification. Concurrently with the certification determination, the certification representative will make a determination of the appropriate level(s) of care provided in each facility.

In facilities which offer more than one distinct program, i.e., level of care, the certification representative shall make a determination with respect to the proper classification of each distinct program within the facility. Facilities which provide services for more than one type of client group must also meet certification standards for each distinct client group and/or program.

Classification of level(s) of care shall be based upon actual staff ratios, actual care and supervision needed by the resident population, programs provided, ancillary support services required by the resident population, and such other indices as shall be developed during a pilot program to be conducted prior to implementation of these proposed rules.

Facility administrators should feel free to discuss level of care determinations with the certification representative. In the absence of a resolution of differences between the facility administrator and the certification representative, should differences exist, the determination of the certification representative shall be final and shall not be changed except as a result of procedures set below.

A facility administrator who does not concur with the classification established by the certification representative should first set forth his objections to the classification in writing, fully documenting reasons for the objections. Such statements of facility position should be directed to Licensing Section, Department of Health and Human Resources, Box 3767, Baton Rouge, Louisiana 70821.

Upon receipt of such a statement of facility position, the Licensing Section shall immediately convene an appropriately constituted body to reexamine the certification representative's determination of the facility's classification. The decision of this body shall be rendered within fifteen days of the date of receipt of the statement of facility position, and the facility administrator shall be immediately notified in writing of the decision.

A facility administrator who does not agree with the results of this preliminary redetermination may officially appeal the level of care classification. This appeal shall be made within thirty days after receipt of the Licensing Section's final decision as to the level of care. This written appeal must be directed to the Secretary of the Department of Health and Human Resources and must request a formal hearing to appeal the decision of the Licensing Section. The Secretary, or his designee, shall set a hearing to be held within thirty days after receipt of such request.

The hearing shall be held in the immediate vicinity of the appellant. The Secretary, or his representative, shall conduct the hearing. The facility administrator, and/or his legal counsel, shall have the right to be present and to present evidence for consideration by the Secretary or his designee. Within ten days after the hearing, the appellant shall be advised, by registered mail, of the decision of the Secretary, either confirming or amending the original decision.

Definition of Levels of Care

Cost-related reimbursement rates paid to facilities shall be based upon expenditures directly related to the level of care, as determined in the certification process, assigned to each facility and/or distinct program within a facility, as follows:

Nonresidential:

Level I—This type of facility serves a population which requires minimal supervision and little or no medical attention.

No academic training is given and clients of school age usually attend public schools.

Specific treatment(s) is given for specific problem(s) of a mental and/or physical nature. Individual treatment goals are written.

Staffing ratio meets the minimum requirements for certification and/or licensure. Treatment is planned and supervised by qualified professionals, but may be implemented by para-professional staff.

Level II—The population served requires moderate or close supervision and may also possess some medical disabilities.