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Executive Orders

EXECUTIVE ORDER MJF 97-22

Bond Allocation—Lafayette Economic Development Authority

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Lafayette Economic Development Authority has requested an allocation from the 1997 Ceiling to be used in connection with the acquisition, construction, and installation of a manufacturing facility, the Loma Company LLC Project, in accordance with the provisions of Section 143 of the *Internal Revenue Code of 1986*, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$7,500,000	Lafayette Economic Development Authority	The Loma Company, LLC

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the state of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1997, provided that such bonds are delivered to the initial purchasers thereof on or before July 21, 1997.

SECTION 4: All references in this order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The

undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

SECTION 6: This order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 21st day of May, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9706#015

EXECUTIVE ORDER MJF 97-23

Mineral Board Signature Authorization

WHEREAS: the State Mineral Board, created by Act 93 of the 1936 Regular Session and continued through R.S. 30:121 et seq., is authorized through R.S. 30:124 to lease for development and production of minerals, oil, and gas the lands belonging to the state of Louisiana and the lands to which title is held in the public, including road beds, water bottoms and lands adjudicated to the state at tax sale;

WHEREAS: pursuant to R.S. 30:129, the State Mineral Board has full supervision of all mineral leases granted by the State of Louisiana, and the general authority to take any action for the protection of the interests of the state, institute actions to annul a lease upon any legal ground, and enter into agreements and amend leases;

WHEREAS: R.S. 30:128 expressly prohibits and provides penalties for the transfer or assignment of any lease of minerals or mineral rights owned by the State of Louisiana without State Mineral Board approval; and

WHEREAS: prior to the creation of the State Mineral Board, certain state leases and other agreements pertaining to the development and production of mineral, oil and gas were executed on behalf of the State of Louisiana by the governor and, therefore, those leases and agreements contain language which require the signature of the governor prior to any transfer of interests therein;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: As to those documents presented to the State Mineral Board, pursuant to R.S. 30:128, for approval of the right to transfer or assign a lease of minerals or mineral rights owned by the State of Louisiana which require the signature of the governor prior to any transfer of interests therein, and which the State Mineral Board has approved the transfer or assignment, the chair of the State Mineral Board is authorized and directed to sign the document on behalf of the governor.

SECTION 2: The provisions of this order are effective upon signature and shall remain in effect until amended, modified, terminated or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 29th day May, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9706#016

EXECUTIVE ORDER MJF 97-24

**Bond Allocation—East Baton Rouge
Mortgage Finance Authority**

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the East Baton Rouge Mortgage Finance Authority has requested an allocation from the 1997 Ceiling to be used in connection with a program of financing mortgage loans for first time homebuyers throughout the Parish of East Baton Rouge in accordance with the provisions of Section 143 of the *Internal Revenue Code of 1986*, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$18,600,000	East Baton Rouge Mortgage Finance Authority	Single Family Mortgage Revenue Bond Program

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the state of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1997, provided that such bonds are delivered to the initial purchasers thereof on or before September 4, 1997.

SECTION 4: All references in this order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

SECTION 6: This order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 6th day of June, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9706#090

EXECUTIVE ORDER MJF 97-25

**Bond Allocation—New Orleans
Home Mortgage Authority**

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the New Orleans Home Mortgage Authority has requested an allocation from the 1997 Ceiling to be used in connection with a program of financing mortgage loans for first time homebuyers throughout the Parish of Orleans in accordance with the provisions of Section 143 of the *Internal Revenue Code of 1986*, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

AMOUNT OF ALLOCATION	NAME OF ISSUER	NAME OF PROJECT
\$15,664,475	New Orleans Home Mortgage Authority	Single Family Mortgage Revenue Bonds

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the state of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect through the end of 1997, provided that

such bonds are delivered to the initial purchasers thereof on or before September 4, 1997.

SECTION 4: All references in this order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

SECTION 6: This order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 6th day of June, 1997.

M.J. "Mike" Foster, Jr.
Governor

ATTEST BY
THE GOVERNOR
Fox McKeithen
Secretary of State
9706#091

Emergency Rules

DECLARATION OF EMERGENCY

**Department of Agriculture and Forestry
Office of Agricultural and Environmental Sciences
Division of Pesticides and Environmental Programs**

Registration of Pesticides; Certification of Commercial
Applicators; Licensing of Owner-Operators; and
Restrictions on Applications in Schools
(LAC 7:XXIII.13113)

In accordance with the Administrative Procedure Act, R.S. 49:953(B) and R.S. 3:3203(A), the commissioner of Agriculture and Forestry is exercising the emergency provisions of the Administrative Procedure Act in adopting the following emergency rule for the implementation of regulations governing standard registrations of pesticides, certification of commercial applicators, licensing requirements of owner-operators, and special restrictions on pesticide applications in schools.

The commissioner has determined that an imminent peril to the public health, safety, or welfare of Louisiana citizens and school children, in particular, requires the implementation of emergency rules. These stringent regulations governing the qualifications required for pesticide registrations, certification of commercial applicators, licensing requirements of owner-operators, and special restrictions on pesticide applications in, on or around school buildings and grounds are necessary to protect individuals and the environment from illegal pesticides and to allow immediate response in the case of the improper or careless application of pesticides.

The effective date of these regulations is May 27, 1997. These regulations will remain in effect 120 days or until the final regulations take effect through the normal promulgation process, whichever occurs first.

Title 7

AGRICULTURE AND ANIMALS

Part XXIII. Pesticides

Chapter 131. Louisiana Advisory Commission on Pesticides

Subchapter D. Registration of Pesticides

§13113. Standard Registrations

A. Application for registration shall consist of two types, namely initial registration and renewal registration. Initial registration application may be filed at any time of the year. Renewal registration application shall be filed by the first day of December each year. Application shall be made on forms or formats prescribed by the commissioner, or on forms or formats which have the prior, written approval of the commissioner.

1. Each application for the initial registration of a pesticide and for the re-registration of a pesticide for which

the label has been changed shall be accompanied by the following information:

- a. the brand of the pesticide;
- b. the name, address and contact person of the manufacturer of the pesticide;
- c. two complete copies of the labeling of the pesticide, containing:
 - i. the specific name of each active ingredient in the pesticide;
 - ii. the percentage of the active ingredients in the pesticide;
 - iii. the percentage of the inert ingredients in the pesticide;
 - iv. the net contents of each package in which the pesticide will be sold;
 - v. a statement of claims made for the pesticide;
 - vi. directions for the use of the pesticide, including warnings or caution statements.
- d. the material safety data sheet prepared in accordance with the requirements of the Environmental Protection Agency;
- e. such other information as the commissioner may require.

2. Application for re-registration of a pesticide for which the label has not been changed shall be accompanied by the following information:

- a. the brand of the pesticide;
- b. the name, address and contact person of the manufacturer of the pesticide;
- c. such other information as the commissioner may require.

3. The labeling requirements as described in LAC 7:XXIII.13113.A.1 shall be resubmitted for any pesticide for which the label has been changed within 60 days of the change.

B. Any registration may be denied by the commissioner if he determines that:

1. the composition of the pesticide is not sufficient to support the claims made for the pesticide;
2. the label on the pesticide does not comply with state and federal requirements;
3. use of the pesticide may produce unreasonable adverse effects on the environment;
4. information required in LAC 7:XXIII.13113.A has not been furnished to the commissioner by the manufacturer.

C. Any pesticide registered in Louisiana must comply with the following:

1. Any pesticide sold or offered for sale or distribution must bear a label consistent with the label submitted in the registration application.
2. Each shipping container must bear the lot or batch number of the pesticide.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3203 and R.S. 3:3221.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Advisory Commission on Pesticides, LR 9:169 (April 1983), amended LR 15:76 (February 1989), LR 23:

Bob Odom
Commissioner

9706#089

DECLARATION OF EMERGENCY

Department of Economic Development Boxing and Wrestling Commission

Deposits; Officials; Agents and
Promotions (LAC 46:XI.Chapters 3 and 5)

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), the Boxing and Wrestling Commission determined a condition of emergency exists regarding the scheduling (date and site selection) of "major events" and commission approval thereof, as provided by state statute, and full disclosure of all promoter and venue information is necessary for a commission decision.

The commission may find it necessary to demand all "monies" relative to boxing venues be placed in escrow in the commission treasury in order to ensure that ring officials are paid and fighters' purses to be placed in escrow, if required.

The commission, therefore, adopts the following emergency rule, effective May 30, 1997. This emergency rule is to remain in effect for a period of 120 days or until the final rule takes effect through the normal promulgation process, whichever occurs first.

Title 46

PROFESSIONAL AND OCCUPATIONAL STANDARDS

Part XI. Boxing and Wrestling

Chapter 3. Professional Boxing

§304. Deposits: Closed Circuit and Pay-Per-View Television Rebroadcasting

All locations rebroadcasting television related events may be required to deposit a maximum of \$1,000, in advance, for expenses and taxes. *Location* in this particular rule means any casino, public auditorium, hotel or civic center. Money, less taxes and expenses, will be refunded by the commission to the producer if taxes collected do not equal amount deposited. If taxes exceed the deposit, then the commission will proceed with collecting taxes as outlined in R.S. 4:67. Sports bars with a 250-person capacity or less will be required to purchase a permit for \$100; sports bars with a 400-person capacity or less will be required to purchase a permit for \$200; over 400-person capacity requires a promoter's license. If sports bars are part of a location, as defined in this rule, then the same rule will apply as a location. Five percent taxes will apply as indicated in R.S. 4:67. Complimentary passes or tickets are taxable if ticket prices are outlined in the television contract or advertised and sold at a specified price. The capacity of a

location will be determined by the state/local fire marshal's office. Locations are required to obtain a promoter's license from the commission; sports bars with a capacity of less than 400 are exempt from purchasing a promoter's license.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:
§314. Prohibited Ring Official Assignments

A ring official domiciled in the state of Louisiana shall not accept an assignment in the United States or its possessions that is not sponsored, sanctioned, approved or supervised by the commission, another official state commission, or a member of the Association of Boxing Commissions. *Official State Commission*, in this rule, means a commission domiciled and coming under the jurisdiction and regulatory powers of their state or United States' possession.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:
§316. Hold Harmless and Indemnity Agreement

All individuals, except the members of the commission, acting in any official capacity for any event(s) sanctioned by the commission shall be required to execute the Hold Harmless and Indemnity Agreement of the commission, prior to receiving any assignment from the commission. This shall be in addition to the agreement as set forth in the license application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:79.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:
§328. Event Approval

A. A member of the Louisiana Boxing and Wrestling Commission, including the chairman, may not legally and or officially authorize and or give approval to any television network, corporation, limited liability company, promoter, matchmaker or any other entity, private or corporate, for any major event date and site selection, without the prior approval of a majority of the commission members voting in favor. *Major event* in this rule means: any boxing, kick-boxing or wrestling (WCW, WWF, etc.) contests that the state of Louisiana authorizes this commission to sanction. Minor local wrestling shows may be excluded from this rule. (Local area commissioners should coordinate these shows through the deputy commissioners and chairman, once they are made aware of such events.)

B. Once a commissioner is contacted by a promoter, he must advise the promoter that a typewritten request on official letterhead must be submitted to the chairman by mail or facsimile. In the request, disclosure must be made regarding the venue (television contracts, promoter, matchmaker, number of bouts, bout contracts, arena contracts, sanctioning bodies, ticket information, etc.) After date and site selection are approved, full disclosure of all venue information must be submitted no later than two weeks prior to the event.

C. Once an official request is made, the chairman must call a meeting to approve or reject the request. A quorum, according to state statute, must be present to approve or reject

such requests. An emergency meeting will not be necessary, if the timetable is such, that the request may be discussed at the regular scheduled commission meeting.

D. The commission may demand that all monies relative to boxing venues be placed in escrow in the commission treasury. *Monies* in this rule is to mean fighters' purses and ring officials' (referees, timekeepers, inspectors, physicians, judges, etc.) expenses. All ring officials' pay will be predetermined and coordinated through the commission with the promoter. The ring officials will be paid by commission checks the same day or night before the start of the first bout. If the commission required fighters' purses to be placed in escrow then the fighters also will be paid by commission checks, less any expenses due the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61D and R.S.4:64

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:

§335. Compensation of Officials

All officials, including ring doctors, who participate in an event sanctioned by the commission, shall be compensated by the promoters/producers. The amount compensated will be predetermined, prior to the event, between the commission and the promoter/producer. Officials, in this rule, do not include the commission.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:

§353. Penalties and Sanctions

Anyone licensed and/or subject to the authority of the commission who violates any of the rules and regulations of the commission as set forth in Title, Parts, and Chapters shall be subject to such sanctions as imposed by the commission which may result in fines, suspensions and revocations of licenses to be determined by the commission pursuant to the laws of the state of Louisiana and the authority of the commission vested to the commission by those laws.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:82.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:

§522. Wrestling Event Deposits

Wrestling promoters/producers will be required to deposit, in advance with the commission, \$250 to secure a date for their scheduled event. This amount will be applied to taxes and deputy expenses. Any cancellation of the advanced booking will result in the loss of the deposit and will be deposited in the commission's treasury. If taxes and expenses do not exceed the \$250 deposit, the commission will refund the excess to the promoter/producer. If expenses and taxes exceed the \$250 deposit, the commission will then collect taxes as outlined in R.S. 4:67.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D), R.S. 4:64 and R.S. 4:67.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:

§523. Wrestling Booking Agent

Repealed (Reserved).

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:

§525. Wrestling Promoters

Repealed (Reserved).

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:61(D) and R.S. 4:64.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Boxing and Wrestling Commission, 1967, amended 1974, repealed by the Department of Economic Development, Boxing and Wrestling Commission, LR 23:

Mike Cusimano
Chairman

9706#028

DECLARATION OF EMERGENCY

Board of Elementary and Secondary Education

Bulletin 1706—Exceptional Children

The Board of Elementary and Secondary Education has exercised those powers conferred by the Administrative Procedure Act, R.S. 49:953(B) and readopted as an emergency rule, Bulletin 1706, regulations for implementation of the Exceptional Children's Act. Re-adoption of the emergency rule is necessary in order to continue the federally required changes until they are finalized as a rule. The effective date of this emergency rule is June 20, 1997. It will remain in effect for 120 days or until finalized as a rule, whichever occurs first.

Emergency adoption is necessary because the Office of Special Education Programs in the U.S. Department of Education has been assured that these regulations would be in effect and enforceable by July 1, 1994. This is required in order for the Louisiana State Plan for Special Education to be approved and Part B dollars to be released to Louisiana.

Part 100. Responsibilities of the Board of Elementary and Secondary Education

§101. Free Appropriate Public Education

A. The Louisiana State Board of Elementary and Secondary Education (the state board) shall be responsible for the assurance of a free appropriate public education to all exceptional students, ages 3 through 21 years, and at the discretion of the local education agency (LEA) and with parental approval to those students with disabilities who will turn 3 years old during the school year; and shall exercise supervision and control of public elementary and secondary education.

B. The state board shall be directly responsible for the provision of a free appropriate public education to exceptional students, ages 3 through 21 years, who are within the jurisdiction of Special School District Number 1, or in the state board special schools (Louisiana School for Visually Impaired, Louisiana School for the Deaf, or Louisiana Special Education Center).

§102. Issuance of Regulations

The state board shall adopt, amend, or repeal rules, regulations, standards, and policies necessary or proper for the provision of a free appropriate public education developed pursuant to R.S. 17:1944(c).

§103. Compliance with Federal Rules

The state board has the responsibility of complying with rules and regulations governing grants for educational purposes from the federal government or from any other person or agency, which are not in contravention to the Constitution and laws, and the authority to take all action necessary to achieve compliance.

§104. Approval of Nonpublic Schools

The state board shall approve each participating nonpublic school that provides special education in accordance with standards established by the state board.

§105. Approval of IDEA - Part B State Plan

The state board will review and approve the State Plan described in §330 of these regulations before its submission to the U.S. Department of Education.

§106. Opportunity of Hearing

The state board shall provide an opportunity for a hearing according to procedures set out in Education Division General Administrative Regulations (EDGAR) at 45 CFR 100b.401d before the department disapproves any school system application for federal entitlement funds for special education under Chapter 1 S.O.P. or IDEA - Part B.

§107-129. Reserved

§130. State Advisory Council

A. The State Board of Elementary and Secondary Education and the department shall appoint a state advisory council for the education of exceptional students. The membership shall be 11. Procedures shall follow existing state board procedures for appointing such councils.

B. Membership of the council shall, at all times, include at least one person representing each of the following groups:

1. individuals with disabilities;
2. teachers of students with disabilities;
3. teachers of regular students;
4. parents of exceptional children;
5. state and local education officials;
6. special education program administrators;
7. representatives of recipients of special education and related services and their families;

8. representatives of advocate agencies for the disabled, for colleges and universities, and for vocational/technical schools.

C. The Advisory Council shall perform the following:

1. advise the state board of unmet needs in the education of exceptional students, including needs identified through study and analysis of the findings and decisions of the hearings;

2. comment publicly on the state annual program plan and rules or regulations proposed for issuance by the state regarding the education of exceptional students and the procedures for distribution of funds under IDEA - Part B;

3. assist the state in developing and reporting such information and evaluations as may assist the U.S.

commissioner of Education in the performance of responsibilities under Section 618 of IDEA - Part B.

D. The Procedures of the Advisory Council

1. The advisory council shall meet as often as necessary to conduct its business.

2. By July 1 of each year, the advisory council shall submit an annual report of council activities and suggestions to the state board. This report must be made available to the public in a manner consistent with other public reporting requirements under this Part.

3. Official minutes must be kept on all council meetings and shall be made available to the public on request.

4. All Advisory Council meetings and agenda items must be publicly announced prior to the meeting, and meetings must be open to the public.

5. Interpreting and other necessary services must be provided at council meetings for council members or participants.

6. The Advisory Council shall serve without compensation, but the State Department of Education must reimburse the council for reasonable and necessary expenses for attending meetings and performing duties.

§131-199. Reserved

Part 200. Responsibilities of the Superintendent of Public Elementary and Secondary Education and the Department of Education

§201. General Responsibilities and Authorities

The state superintendent of public Elementary and Secondary Education (the superintendent) and the State Department of Education (the department) shall administer those programs and policies necessary to implement R.S. 17:1941 et seq. Responsibilities of the state superintendent and the department include the following:

A. approving, in accordance with standards approved by the state board, each public school program that delivers special education;

B. recommending to the state board approval, in accordance with standards approved by the state board, of each participating nonpublic school program that delivers special education;

C. receiving, administering, and directing distribution of federal funds for education of exceptional students, except those received directly by school systems;

D. recovering any funds made available under IDEA-B for services to any student who was determined to be erroneously classified as eligible to be counted.

§202-204. Reserved

§205. Preparation of Annual Budget

The department shall prepare and submit to the state board for review and approval a comprehensive budget for the next fiscal year that at a minimum proposes the appropriations by the Louisiana Legislature of whatever state funds are needed by the department, Special School District Number 1, and city/parish school systems to comply fully with all of the requirements established by the regulations for the Implementation of the Exceptional Children's Act (with due regard to federal maintenance of effort, nonsupplanting, comparability, and excess cost requirements).

§206-219. Reserved

§220. Certification of Personnel

The department must develop as needed, Louisiana standards for state certification of school and other program personnel, subject to approval by BESE, for all public and participating nonpublic program staff who provide special education, administrative, ancillary, pupil appraisal and related services to exceptional students (birth through age 21) under Part B and Part H of IDEA.

§221-229. Reserved

§230. Review of Enforcement Recommendations

The state superintendent, after review of the recommendations from the office, submits to the state board at the next regularly scheduled meeting all recommendations of the department to withhold state or federal funds for special education or to take other necessary enforcement action in accordance with the procedures described in the *Louisiana Administrative Code*.

§231-239. Reserved

§240. Hearing Officers

The department and each local agency shall maintain a list of qualified hearing officers. The list will include a statement of the qualifications of each of those persons and, to the extent possible, include representation from all regions of the state. The department ensures that these hearing officers have successfully completed an inservice training program approved by the department and meet all other criteria established by the department. Additional inservice training shall be provided whenever warranted by changes in applicable legal standards or educational practices.

§241-250. Reserved

§251. Relationship Between Special Education and Competency-Based Education

§252. Competency-Based Assessment Program

A. No exceptional student shall be automatically excluded from participation in any educational assessment program. Individual exemption from any such assessment program requires formal parental approval and will be reflected in the student's IEP.

B. Individual exemption from any such assessment program will be appropriate for exceptional students who are not following a curriculum based on Louisiana's grade level standards for and who are not pursuing a regular high school diploma.

C. Exceptional students who take part in the testing program shall have available to them certain procedural modifications in the administration of the tests when indicated on the student's IEP.

§253-259. Reserved

§260. Full Educational Opportunity

The department must ensure that all public education programs of the state strive to meet the goal of providing full service to all exceptional students, ages birth through 21 years, by the year 2010.

§261. Arts for Students with Disabilities

The department shall encourage the use of the arts as a teaching tool and the recognition of the importance of artistic and cultural activities in the education of students with disabilities.

§262-269. Reserved

§270. Interagency Agreements

The department is authorized to enter into any agreement developed with another public or private agency, or agencies, which is:

- A. consistent with Part 800 of these regulations;
- B. essential to the achievement of full compliance with these regulations;
- C. designed to achieve or accelerate the achievement of the full educational goal for all exceptional students;
- D. necessary to provide maximum benefits appropriate in service, quality, and cost to meet the full educational opportunity goal in the state;
- E. necessary to promote the successful transition of youths with disabilities into adult services and agencies.

§271. Approval of Out-of-District Placement

The department shall approve or disapprove each request made by a school system to place an exceptional student outside the geographic boundaries of that school system unless the placement is in an approved cooperative operated by the school system.

§272-274. Reserved

§275. Fiscal Agent

The department shall act as the fiscal agent in disbursing funds under Chapter 1, State Operated Programs (SOP) for Students with Disabilities, including transfers of such funds to city/parish school systems. No provision of the Louisiana competency-based education program shall be construed to interfere with the provision of a free appropriate public education to exceptional students under these regulations [R.S. 17:24.4(D)]. from state-operated programs and state-supported programs.

§276-289. Reserved

§290. Nondiscrimination

The State Department shall comply with the following statutes and regulations:

Subject	Statute	Regulation
Discrimination on basis of race, color, or national origin	Title VI of the Civil Rights Act of 1964 (45 U.S.C. 2000d through 2000d-4)	45 CFR Part 80
Discrimination on basis of sex	Title IX of the Education Amendments of 1972 (20 U.S.C. 1681-1683)	45 CFR Part 86
Discrimination on basis of handicap	Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 974) Act 665 of the 1980 La. Legislature (R.S. 46:2251-2256)	45 CFR Part 84
Discrimination on basis of age	The Age Discrimination Act (42 U.S.C. 6101 et seq.)	45 CFR Part 90

§291-299. Reserved

Part 300. Responsibilities and Activities of the Office of Special Educational Services

§301. General Supervision

The Office of Special Educational Services is established within the department to provide general supervision of all

education programs for exceptional students within the state, including all participating nonpublic school programs and all education programs administered by other state or local agencies. *General Supervision* is defined as the responsibility to perform the following:

A. ensure that all necessary state standards for implementation of the act are established;

Comment: Any state standard affecting other state agencies and established under the general supervision requirement shall be developed in cooperation with such agencies.

B. disseminate such standards and revisions to all public and nonpublic agencies bound by them and provide parents and all citizens with information requested regarding implementation of such state standards;

C. provide technical assistance to all public and nonpublic agencies bound by such standards in their proper implementation;

D. monitor according to written procedures the implementation of state standards in each public and each participating nonpublic agency. Such monitoring shall include child identification and programmatic, administrative, and fiscal issues;

E. institute a system for complaint management and investigation regarding the implementation of state standards.

§302. Monitoring, Complaint Management and Investigation

A. The office is authorized to implement the monitoring, complaint management and investigatory provisions of these regulations.

B. The office must monitor in accordance with the procedures established in the *SDE Monitoring Procedures*, Bulletin 1922, all public and participating nonpublic schools and other education agencies for compliance with these and other applicable federal regulations, state statutes and standards.

C. The office, through its complaint management procedures, shall:

1. investigate allegations of failure to comply with any provision of these regulations and other applicable state or federal laws, regulations or state standards;

2. conduct hearings when necessary; and

3. issue subpoenas on behalf of the department to require attendance, testimony by witnesses and the production of documentary evidence.

D. The office, in carrying out its investigatory responsibilities, may require school systems and participating nonpublic education agencies to keep certain records, and submit to the office complete and accurate reports at such time and in such form and containing such information as is determined necessary to enable the office to fulfill its responsibilities of ensuring compliance.

§303-328. Reserved

§329. State Plan under the Individuals with Disabilities Education Act

The office shall prepare for submission to the state board the state plans required under IDEA according to applicable federal requirements for such plans.

§330. The State Plan: Public Notice and Participation

A. In the preparation of the State Plan required under IDEA - Part B, the office must perform the following:

1. publish in newspapers of general circulation throughout the state, other media, or both, a summary of the proposed program plan indicating its purpose and scope, its public availability, the timetable for final approval, the procedures for submitting written comments, any policy changes from previous plans, and a list of the times and places of public meetings to be held. Such notice shall occur between 45 and 60 calendar days prior to submission of the program plan to the state board;

2. distribute to any parent organization, child and youth advocacy organization, school board, approved nonpublic school program, public college or university, or affected state agency, operating in Louisiana, which has previously registered with the office, a copy of the proposed plan and a list of the times and places of public meetings to be held. This distribution must occur no less than 30 calendar days prior to submission of the proposed plan to the state board;

3. publish on each of the three days preceding a public meeting a description of the time, place, and purpose of the meeting in newspaper(s) of general circulation in the area of the state in which the meeting will be held;

4. hold a series of open public meetings in which parents and other interested persons throughout the state are afforded a reasonable opportunity to comment on the proposed plan;

5. file in a publicly available location a written or electronic verbatim record of the public meetings and any written comments received;

6. review and consider all public comments which might warrant modification of the plan;

7. attach a summary of the comments made during the public meeting or received by the state board to the proposed final plan submitted to the state board;

8. publicize the approval by the state board of a final plan and the location at which copies of the plan can be obtained by the public;

9. publicize the approval or disapproval by the U.S. Department of Education of the annual plan and the location at which copies of the plan can be obtained by the public.

B. The office must make all reasonable efforts to inform potentially interested parent and child advocacy organizations throughout the state, and all school boards, approved nonpublic school programs, public colleges and universities, and affected state agencies of the requirements of this Subpart and of §488.

C. The office shall maintain a list of each interested group identified as a result of Subsection B above.

§331-339. Reserved

§340. Review and Approval of Annual Applications of School Systems

A. The office must review each annual application for IDEA - Part B funds submitted by a school system, and:

1. provide written notice of whether an application is or is not in substantially approvable form (and if not, the reasons therefore) within 45 days from the receipt of the application;

2. provide formal written approval (or disapproval) within 10 operational days following receipt by the department of an approved grant award document for expenditure of IDEA - Part B funds from the U.S. Department of Education.

B. Applications for federal and/or state funds in periods during which they may be applied for shall be approved or disapproved by the office according to applicable federal or state procedures.

§341. Provisions for FAPE by the Department

When the department does not distribute IDEA - Part B funds to a school system in accordance with §230 and §373.B, the office shall use those funds to ensure the provision of a free appropriate public education to students with disabilities residing in the area served by the school system either directly, by contract, or through other arrangements. The department may provide special education and related services in the manner and at the location the department considers appropriate, consistent with the requirements of these regulations.

§342-354. Reserved

§355. Confidentiality of Records

The office must comply with all of the requirements of §517 pertaining to confidentiality of personally identifiable education records.

§356. Notification of Child Identification Effort

Notice of the child identification effort regularly undertaken by the department and school systems must be published or announced in newspapers or other media, or both, with circulation adequate to notify parents throughout the state.

§357-369. Reserved

§370. Comprehensive System of Personnel Development

In planning, coordinating, implementing, and evaluating the comprehensive system of personnel development (CSPD) required under IDEA, the Office of Special Educational Services is responsible for the following tasks:

A. conduct a comprehensive needs assessment at least once every three years in conjunction with the development of the Special Education Annual Plan to determine supply/demand personnel projections for the subsequent five-year period for qualified special education instructional, leadership, pupil appraisal, related services, and support personnel required to assure a free appropriate public education for all exceptional students (birth through age 21). After the initial comprehensive needs assessment, follow-up assessment in targeted areas of need will be conducted during the ensuing two years to determine changes or corrections in the course of action for the three-year program plan. The comprehensive needs assessment may be conducted more often if deemed appropriate;

B. identify, on the basis of the comprehensive needs assessment, target populations for personnel preparation (preservice) and personnel development (continuing education), and describe procedures to ensure that activities are carried out and the program plan is on schedule;

C. coordinate and facilitate efforts among the department, LEAs, IHEs, professional associations, parent associations, and other support groups and councils, to recruit, prepare, and retain qualified personnel, including personnel from minority backgrounds, and personnel with disabilities through support of CSPD statewide committee activities, regional CSPD activities, and multi-agency and interdisciplinary collaborative planning;

D. establish, with the approval of BESE, a system for dissemination, statewide, of information on effective practices for the delivery of special educational services, and procedures for replication and/or adoption of effective practices and/or programs.

§371. Preservice Training Agreements

The Office of Special Educational Services shall develop, in concert with colleges and universities within the state, preservice training arrangements necessary to support approved local public and participating nonpublic school systems and service providers in complying with the requirements of IDEA in achieving the goal of full educational opportunity in the least restrictive environment for exceptional students in Louisiana.

§372. Training of Personnel in Participating Nonpublic Schools

The office, for the department, shall provide the opportunity for continuing education (inservice training) of personnel of participating nonpublic schools.

§373. Administration of Funds

A. The office shall ensure the proper receipt and disbursement of all state and federal funds administered by the department specifically for the provision of special education and related services for exceptional students.

B. The office shall not distribute funds to a school system in any fiscal year if the school system:

1. does not submit an annual application that meets the requirements of §487 of these regulations;
2. is unable or unwilling to establish and maintain programs of free appropriate public education;
3. is unable or unwilling to enter into a cooperative agreement with other school systems in order to establish and maintain those programs;
4. has not implemented the provisions of a hearing officer's decision which was adverse to the school system; or
5. has failed to comply with a corrective action plan developed to eliminate compliance deficiencies found through state monitoring, a complaint investigation, or a due process hearing order.

C. An on-site fiscal review and compliance monitoring will be conducted in accordance with the *SDE Monitoring Procedures*, Bulletin 1922.

D. The BESE establishes the policy to seek to recover any funds made available under IDEA-B for services to any student who is determined to be erroneously classified as eligible to be counted.

E. Determination of misclassified students shall be accomplished through the verification procedures of the SDE regarding the child count as detailed in §491. In order to verify the accuracy of each count submitted, the office will conduct the following activities:

1. The current child count from each school system will be compared with the previous count. Discrepancies of ± 10 percent in any disability category will be noted.
2. The current child count incidence figures from each school system will be compared with incidence figures from the previous state child count. Discrepancies of ± 2 percent in any disability category will be noted.