



STATE OF LOUISIANA
DEPARTMENT OF STATE CIVIL SERVICE
LOUISIANA BOARD OF ETHICS

P. O. BOX 4368
BATON ROUGE, LA 70821
(225) 219-5600
FAX: (225) 381-7271
1-800-842-6630
www.ethics.la.gov

February 6, 2020

The Honorable Representative Stephen Dwight
Chairman, House and Governmental
Affairs Committee
'apa.h-hg@legis.la.gov'
P. O. Box 94062
Baton Rouge, Louisiana 70804

Re: Promulgation of Amended Rules Regarding the Board of Ethics (LAC 52: I. Chapter 10, 11, 16, and 17, *Louisiana Register*, Volume 45, No. 12, December 20, 2019, Page 1818 - 1821)

Dear Representative Dwight:

Pursuant to R.S. 49:968(D)(1)(b), the Louisiana Board of Ethics reports that no public hearing has been or will be held as to the proposed amended regulations concerning the amended rules to define statutory language, provide clarity to current statutory provisions and to pre-hearing procedures and motions for summary judgements. The deadline to submit comments or request a public hearing for the proposed rules was January 10, 2020. No one submitted comments or requested a public hearing; therefore, no public hearing was scheduled.

If you would like to schedule a hearing before the Senate and Governmental Affairs Committee to consider these suggested rules, please contact Kristy Gary, Deputy Ethics Administrator or myself to provide such assistance as is necessary under these circumstances. Upon receiving a favorable recommendation, the Louisiana Board of Ethics anticipates the final rule will be published on March 20, 2020 and the effective date of the proposed rules will be upon rule promulgation.

Sincerely,

LOUISIANA BOARD OF ETHICS

Kathleen M. Allen
For the Board

KMA:kfg



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February 1, 2020

The Honorable Senator Sharon Hewitt
Chairperson, Senate and Governmental Affairs
apa.s-s&g@legis.la.gov
P.O. Box 94183
Baton Rouge, Louisiana 70804

Re: Promulgation of Amended Rules Regarding the Board of Ethics (LAC 52: I. Chapter 10, 11, 16, and 17, *Louisiana Register*, Volume 45, No. 12, December 20, 2019, Page 1818 - 1821)

Dear Senator Hewitt:

Pursuant to R.S. 49:968(D)(1)(b), the Louisiana Board of Ethics reports that no public hearing has been or will be held as to the proposed amended regulations concerning the amended rules to define statutory language, provide clarity to current statutory provisions and to pre-hearing procedures and motions for summary judgements. The deadline to submit comments or request a public hearing for the proposed rules was January 10, 2020. No one submitted comments or requested a public hearing; therefore, no public hearing was scheduled.

If you would like to schedule a hearing before the Senate and Governmental Affairs Committee to consider these suggested rules, please contact Kristy Gary, Deputy Ethics Administrator or myself to provide such assistance as is necessary under these circumstances. Upon receiving a favorable recommendation, the Louisiana Board of Ethics anticipates the final rule will be published on March 20, 2020 and the effective date of the proposed rules will be upon rule promulgation.

Sincerely,

LOUISIANA BOARD OF ETHICS

Kathleen M. Allen
For the Board

KMA:kfg

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Campaign Finance Disclosure (LAC 52:1.1611)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to amend certain sections of the Rules for the Board of Ethics to define statutory language and provide clarity to current statutory provisions.

Title 52

ETHICS

Part I. Board of Ethics

Chapter 16. The Board as Supervisory Committee of the Louisiana Campaign Finance Disclosure Act

§1611. Violation Contained in a Report

A. The language of R.S. 18:1511.11 of “the violation is contained in a report...” shall mean that the alleged campaign finance violation shall be evident on the face of the report, without further investigation or information provided from another source, in order for the one-year prescriptive period to be applicable.

B. The originating source of a campaign finance contribution or loan must be disclosed and contained in the report of the candidate, political committee, and other person required to file reports pursuant to the CFDA for the purpose of commencing the one year prescriptive period from the filing of the relevant report.

C. Any disclosure other than the originating source of the contribution or loan to the candidate, political committee, or other person required to file reports pursuant to the CFDA shall be an insufficient disclosure for the purpose of commencing the one year prescriptive period from the filing of the relevant report.

D. The specific and aggregate dollar amounts of the contribution or loan, for the requisite filing period, must be accurately disclosed in the relevant report for the purposes of instituting the prescriptive period of “one year has elapsed from the filing of the relevant report.”

E. The relevant report for commencing the one-year prescriptive period in the CFDA shall be the filed report required by the Campaign Finance Disclosure Act.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 46:

Family Impact Statement

The proposed Rule changes have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule changes have no known impact on poverty, as described in R.S. 49:972.

Small Business Analysis

The proposed Rule should not have any known or adverse impact on small business as described in R.S. 49:956.6

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, LA 70821, telephone (225) 219-5600, until 4:45 p.m. on January 10, 2020.

Kathleen M. Allen
Ethics Administrator

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Campaign Finance Disclosure

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost to implement the proposed rule change is \$168 in FY 19-20, which accounts for the cost to publish the Notice of Intent and the rule in the State Register. There are no additional estimated implementation costs or savings to state or local governmental units. The proposed rule seeks to amend certain sections to define statutory language and provide clarity to current statutory provisions with regard to the Campaign Finance Disclosure Act.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed action will affect persons who file or are required to file campaign finance disclosure reports; however, it is not anticipated that it will impact their costs and /or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no anticipated effect on competition and employment.

Kristy Gary
Ethics Administrator
1912#063

Evan Brasseaux
Staff Director
Legislative Fiscal Office

Box 4368, Baton Rouge, LA 70821, telephone (225)
219-5600, until 4:45 p.m. on January 10, 2020.

Kathleen M. Allen
Ethics Administrator

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Code of Governmental Ethics (LAC 52:I.1701 and
1719)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to repeal certain sections of the Rules for the Board of Ethics to bring the rules into compliance with current statutory provisions.

Title 52 ETHICS

Part I. Board of Ethics

Chapter 17. Code of Governmental Ethics

§1701. Exception Contained in Section 1123(13); Sporting and Cultural Events

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 31:1228 (June 2005), repealed LR 46:

§1719. Elected Officials; Duties and Rights

Repealed.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 24:1895 (October 1998), repealed LR 46:

Family Impact Statement

The proposed Rule changes have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule changes have no known impact on poverty, as described in R.S. 49:972.

Small Business Analysis

The proposed Rule should not have any known or adverse impact on small business as described in R.S. 49:956.6

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session.

Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O.

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Code of Governmental Ethics

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost to implement the proposed rule change is \$168 in FY 19-20, which accounts for the cost to publish the Notice of Intent and the rule in the State Register. There are no additional estimated implementation costs or savings to state or local governmental units. The proposed rule seeks to repeal two sections of the rules for the Board of Ethics, as the relevant law does not exist anymore and the rule has become obsolete.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed rule change will have no anticipated costs or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no anticipated effect on competition and employment.

Kristy Gary
Deputy Ethics Administrator
1912#062

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Civil Service Board of Ethics

Hearings and Pre-Hearing Procedures
(LAC 52:I.1002, 1101 and 1102)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., notice is hereby given that the Department of Civil Service, Louisiana Board of Ethics, has initiated rulemaking procedures to amend certain sections of the rules for the Board of Ethics to clarify hearing

procedures, pre-hearing procedures and motions for summary judgements and to reference current statutory provisions.

Title 52

ETHICS

Part I. Board of Ethics

Chapter 10. Hearings

§1002. Initiating Declaratory Hearings

A. Declaratory hearings may be conducted, at the discretion of the board, upon submission of an application pursuant to R.S. 42:1141.6.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1293 (October 1997), amended LR 39:1416 (June 2013), LR 46:

Chapter 11. Pre-Hearing Procedure

§1101. Discovery

A. Any public servant or other person who has been notified that he is to be the subject of a public hearing pursuant to the provisions of R.S. 42:1141.4 et seq. and the trial attorney and general counsel for the board shall be entitled to conduct discovery regarding any matter, not privileged, which is relevant to the pending public hearing. It is not grounds for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

B. - D. ...

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1296 (October 1997), amended LR 39:1418 (June 2013), LR 46:

§1102. Motions and Exceptions

A. - B. ...

C. Motion for Summary Judgment; Procedure before the Ethics Adjudicatory Board

1. A motion for summary judgment may be filed by the Louisiana Board of Ethics or the respondent without leave of the Ethics Adjudicatory Board and without an agreement by any other party to the use of summary judgment procedure, at any time before, during or after a public hearing on the merits.

2. The summary judgment procedure is designed to secure the just, speedy, and inexpensive determination of every action. This procedure is favored and shall be construed to accomplish these ends.

3. Motions for summary judgment before the Ethics Adjudicatory Board shall be solely governed by the Louisiana Code of Governmental Ethics, the Rules for the Louisiana Board of Ethics and the Administrative Procedure Act.

4. After an opportunity for adequate discovery, a motion for summary judgment shall be granted if the motion, memorandum, and supporting documents show that there is no genuine issue as to a material fact and that the mover is entitled to judgment as a matter of law.

5. Documents that may be filed in support of or in opposition to the motion are:

- a. pleadings;
- b. memorandum;
- c. affidavits;
- d. depositions;
- e. answers to interrogatories;
- f. written stipulations;
- g. admissions;

h. the Louisiana Board of Ethics' investigative file;

i. all records and documents in the possession of the Louisiana Board of Ethics, which may be received in the form of copies or excerpts or by incorporation by reference, which shall be made available to the respondent prior to the hearing on the motion for summary judgment for examination; and

j. any other documents that give probative value commonly accepted by reasonably prudent men in the conduct of their affairs.

6. The Ethics Adjudicatory Board may exclude incompetent, irrelevant, or immaterial, and unduly repetitious evidence.

7. All objections to evidentiary offers may be made and shall be noted in the record. When an objection to an evidentiary offer is sustained by the Ethics Adjudicatory Board, the subject evidence shall be considered proffered into the record with or without a motion.

8. The burden of proof rests with the mover.

a. Nevertheless, if the mover will not bear the burden of proof at the public hearing on the merits on the issue before the Ethics Adjudicatory Board on motion for summary judgment, the mover's burden on the motion does not require him to negate all essential elements of the adverse party's claim, action, or defense, but rather to point out to the court the absence of factual support for one or more elements essential to the adverse party's claim, action, or defense.

b. The burden is on the adverse party to produce factual support sufficient to establish the existence of a genuine issue of material fact or that the mover is not entitled to judgment as a matter of law.

9. The Ethics Adjudicatory Board may render summary judgment dispositive of a particular issue or defense in favor of one or more parties even though the granting of the summary judgment does not dispose of the entire case as to that party or parties.

10. The Ethics Adjudicatory Board may render or affirm summary judgment only as to those issues set forth in the motion under consideration by the board at that time.

11. Notice of the hearing on the Motion for Summary Judgment shall be transmitted to the Louisiana Board of Ethics through the secured electronic file transfer system and to the Respondent through his counsel of record, or if no counsel of record, to the Respondent, by either email or regular mail to last known email or mailing address provided by the Respondent's counsel of record or Respondent to the Ethics Adjudicatory Board.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 23:1297 (October 1997), amended LR 39:1419 (June 2013), LR 46:

Family Impact Statement

The proposed Rule changes have no known impact on family formation, stability or autonomy, as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule changes have no known impact on poverty, as described in R.S. 49:972.

Small Business Analysis

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Public Comments

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, LA 70821, telephone (225) 219-5600, until 4:45 p.m. on January 10, 2020.

Kathleen M. Allen
Ethics Administrator

**FISCAL AND ECONOMIC IMPACT
STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Hearings and Pre-Hearing
Procedures**

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The estimated cost to implement the proposed rule change is \$168 in FY 19-20, which accounts for the cost to publish the Notice of Intent and the rule in the State Register. There are no additional estimated implementation costs or savings to state or local governmental units. The proposed rule seeks to amend certain sections to clarify hearing procedures, pre-hearing procedures and motions for summary judgements and to reference current statutory provisions.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

The proposed rule change will have no anticipated effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

The proposed action will affect those persons who are the subject of charges pending before the Ethics Adjudicatory Board. It is not anticipated that this action will have a demonstrable effect on their costs and/or economic benefits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change will have no anticipated effect on competition and employment.

Kristy Gary
Deputy Ethics Administrator
1912#061

Evan Brasseux
Staff Director
Legislative Fiscal Office