

**Department of Civil Service**  
**Division of Administrative Law**  
**(LAC I:III.Chapters 1-8)**

**RULE**

**Department of Civil Service**  
**Division of Administrative Law**

Hearing Procedures-Adjudication  
(LAC I:III.Chapters 1-8)

In accordance with R.S. 49:950 et seq., that the Division of Administrative Law, pursuant to authority vested in the Director by R.S.49:996(7) and in accordance with applicable provisions of the Administrative Procedure Act, has adopted Rules establishing hearing procedures to regulate DAL adjudications. These Rules are intended to supplement procedures already existing in the Administrative Procedure Act.

**Title I**

**ADMINISTRATIVE LAW**

**Part III. Division of Administrative Law**

## **Chapter 1. General Rules**

### **§101. Purpose**

A. Adjudications conducted by the Division of Administrative Law shall be governed by the Administrative Procedure Act (APA), R.S. 49:950 et seq., and the Division of Administrative Law Act (DALA), R. S. 49:991 et seq. To the extent that these Rules are not in conflict with other statutory authority, they establish additional procedures for regulating adjudications conducted by the Division. These Rules are not intended to be a comprehensive guide for Division hearings but are intended only as a supplement to the APA and the DALA. Adjudications conducted pursuant to federal law or R.S. 49:999.1, may be governed by other rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§103. Definitions**

A. The following terms used in this Chapter shall have the meanings listed below, unless the context otherwise requires, or unless specifically redefined in a particular section.

*Administrative Hearings Clerk*-the person who, directly or through his/her designee, maintains custody of and receives filings to the adjudicatory record for the Division.

*Division*-the Division of Administrative Law.

*Pleading*-a petition, motion, response, request or any statement of position filed in connection with an adjudication or appeal.

*Referring Agency*-the state agency for which an adjudicatory hearing is being held.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§105. Conflicts**

A. Except as otherwise required by law, this Chapter shall govern procedures used in Division adjudications.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§107. Severability**

A. If any provision of these Rules, or the application thereof, is held to be invalid, the remaining provisions shall not be affected, so long as they can be given effect without the invalid provision. To this end, the provisions of these Rules are declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

**§109. Computation of Time**

A. In computing any period of time prescribed or allowed in these Rules, except where otherwise required by law, the day on which the designated period begins shall not be included. The last day of the designated period shall be included unless it is a Saturday, Sunday, or a legal holiday as provided in R.S. 1:55, in which event the designated period shall run until the end of the next day which is not a Saturday, Sunday, or a legal holiday.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **Chapter 3. Filing and Notices**

#### **§301. Administrative Hearings Clerk**

A. The administrative hearings clerk shall be the official custodian of adjudicatory records for the Division. The clerk shall certify copies of official documents in his/her custody; distribute decisions, recommendations, orders, subpoenas, and notices issued by the administrative law judges; and perform other duties as assigned by the director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

#### **§303. Docket Number**

A. At the time a request for docketing or hearing is received by the Division, the matter shall be assigned a docket number. The docket number shall be used on all subsequent pleadings, amendments or supplements filed in the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

#### **§305. Official Recordings; Copies of Official Recordings; Transcripts**

A. The Division shall make an official recording of the hearing.

B. Copies of tapes shall be available for purchase from the administrative hearings clerk.

C. A verbatim transcript shall be made when requested by a party or required by law. Requests for a transcript shall be in writing and submitted to the administrative hearings clerk. The administrative hearings clerk will furnish an estimate of the transcription costs. The estimated costs must be paid before the recording will be transcribed. Actual costs must be paid in full before delivery of the transcript.

D. When a transcript of any part of the proceeding has been made, the original shall be filed into the adjudicatory record.

E. Copies of public records held by the Division may be purchased pursuant to Division of Administration regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§307. Filing of Pleadings and Documents**

A. Any pleading, document or other item which is being filed into the adjudicatory record shall be filed by hand delivery, mail, or if less than 25 pages, by facsimile transmission with the administrative hearings clerk.

B. Unless otherwise provided by law, all pleadings, documents or other items shall be deemed filed on the date received by the administrative hearings clerk. Receipt of a filing by facsimile transmission on or before the due date shall be considered as timely filed, provided the original document is filed into the adjudicatory record within five working days of receipt of the facsimile.

C. Parties requesting discovery shall serve such requests on any other party, his/her counsel of record, or other designated representative, but discovery requests shall not be filed in the record of the proceedings. The party responsible for service of the discovery materials shall retain the original and become the custodian of such materials. The provisions of this Section shall not be construed to preclude the filing of any discovery materials as exhibits or as evidence in connection with a motion or hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§309. Notices**

A. This section shall apply to notices of hearings, orders, decisions and other pertinent documents sent by the Division.

B. Notices shall be sent by regular mail unless otherwise required by law. Notices may be sent to the counsel of record only. Otherwise, notices are sent to the party's last known address as filed in the adjudicatory record. Parties shall promptly send address changes to the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§311. Pleadings-Form and Content**

A. Unless otherwise required by law, pleadings should:

1. state the name, mailing address and telephone number of the person filing the pleading, and his/her attorney bar roll number, if applicable;

2. be legibly written in ink, typewritten or printed with one-inch top, bottom and side margins and should be on strong durable white paper, no larger than 8 1/2 by 11 inches;

3. be divided into separately numbered paragraphs and double-spaced;

4. state clearly, concisely and particularly all relevant facts that support the relief sought;

5. state the relief sought;

6. when appropriate, identify any statute, regulation, rule, written statement of law or policy, decision, order, permit, or license and the particular aspect of each upon which the pleading relies;

7. be signed in ink by the party filing same or by his or her duly authorized agent or attorney. The signature of the person signing the document constitutes a certification that he or she has read the document and that, to the best of his or her knowledge, information and belief, every statement contained in the document is true; and

8. certify that service has been made in accordance with these Rules.

B. The heading should be similar in format to and shall include the information contained in the following example:

STATE OF LOUISIANA

DIVISION OF ADMINISTRATIVE LAW

DEPARTMENT OF \_\_\_\_\_ \*

\*

\*

IN THE MATTER OF \_\_\_\_\_ \*

DOCKET NO. :

\*

\*

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(TITLE OF PLEADING)

C. The certificate of service should be similar in format to and shall include the information contained in the following example:

I certify that a copy of this document has been sent to all parties of record by (mail, fax, hand delivery) on this \_\_ day of \_\_, 200\_\_.

D. Failure to comply with this Section shall not invalidate the pleadings, but the administrative law judge shall have discretion to rule whether pleadings are in substantial compliance with this Section, to require the amendment or supplementation of any pleading, or to take such other action as may be appropriate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§313. Service of Pleadings**

A. Except where otherwise required by law, on or before the day that a pleading is filed with the administrative hearings clerk, service of same shall be made by the party who prepared the pleading, upon all other parties, attorneys or designated representatives by hand delivery, mail or facsimile transmission to the recipient at the number designated for facsimile transmission.

B. Unless otherwise provided herein, service by mail or by facsimile transmission is effective on the date mailed or transmitted. Personal or domiciliary service is effective when delivered or tendered, even if delivery is refused.

C. When a party is represented by an attorney or other designated representative or has appointed an agent for service of process, notice may be given to the party through the attorney, other designated representative or agent.

D. Service on a party or person shall be given at the last known address filed into the adjudicatory record. Any party or person shall timely file into the adjudicatory record notice of any change of address.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

## **Chapter 5. Adjudications**

### **§ 501. Administrative Law Judge: Regulating Adjudications**

A. The administrative law judge shall have the authority to regulate the course of the proceedings and maintain order in accordance with R.S. 49:994.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§503. Commencement of Adjudications**

A. A case is commenced for purposes of this Chapter upon the filing of a docketing or hearing request with the administrative hearings clerk by a party or a referring agency accompanied by a notice of violation or request for a hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§505. Location of Hearings**

A. Hearings will be held in the venue required by statute.

B. Department of Public Safety, Office of Motor Vehicle hearings held pursuant to R.S. 32:661 et seq., will be scheduled in one of the following regions: where the arrest was made, where the attorney is located, or where the police officer is assigned if the officer is subpoenaed.

C. Unless a statute requires otherwise, the location of hearings will be determined by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§507. Telephone Hearings**

A. The administrative law judge may designate that all or any portion of a proceeding be conducted by telephone, unless prohibited by law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§509. Representation**

A. Parties shall have the right to retain counsel but shall not be required to do so. Counsel seeking to withdraw from the representation of a party shall file a Motion to Withdraw. Leave to withdraw shall not be withheld unreasonably.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§511. Consolidation**

A. When two or more adjudications involving common issues of law or fact are separately pending before the Division, the administrative law judge, upon his or her own motion or that of any party, at any time prior to the adjudicatory hearing, may order the consolidation of the matters or may order a joint hearing on any of the common issues. If the matters are pending before two or more administrative law judges, the approval of each administrative law judge is required. The matter with the higher docket number shall be transferred to the administrative law judge to whom the matter with the lower docket number was assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§513. Separation of Actions**

A. Upon motion of the administrative law judge or of any party, the administrative law judge may separate actions, which were cumulated or consolidated if separation would simplify the proceedings, permit a more orderly disposition of the matter, or otherwise be in the interest of justice.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§515. Continuances**

A. Except where otherwise prohibited by law, a continuance may be granted in any case for good cause shown. Motions for continuance should be in writing.

AUTHORITY NOTE: Promulgated in accordance with R. S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§517. Motions**

- A. Any party may file motions relating to an adjudication.
- B. Except as otherwise permitted by the administrative law judge, all motions, other than those made during a hearing or conference, shall be submitted in writing and served on all parties as provided in §313 of these Rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§519. Subpoenas**

A. The Division shall order the issuance of a subpoena upon written request of a party and compliance with the requirements of this Rule.

B. Unless otherwise provided, to request the issuance of a subpoena, the following procedure shall be followed.

1. The subpoena shall be prepared and served by the requestor who shall file the return of service into the adjudicatory record. In Department of Public Safety/Office of Motor Vehicles cases a law enforcement officer subpoena shall be prepared by the administrative hearings clerk and delivered to the appropriate law enforcement agency to be served upon the law enforcement officer witness.

2. A request on behalf of any party shall be accompanied by a check or money order to cover witness fees pursuant to R.S. 49:956(5), R.S. 13:3662.A (law enforcement officers), LAC 55.III.201, or other applicable law. Witness fees for experts shall be set by the administrative law judge in accordance with R.S. 49:950 et seq. The check or money order shall be made payable to each witness subpoenaed, or as provided for law enforcement witnesses.

3. Additional witness fees must be submitted in order for a subpoena to be reissued due to a continuance or other reason.

- a. the heading contained in §311.B of these Rules;
- b. the name of the party and the representative or attorney requesting the subpoena;
- c. the docket number of the case;
- d. the complete name, service address (with directions if necessary), and telephone number of the person being subpoenaed;
- e. a sufficient description of any document or item to be produced; and
- f. the date, time, place and proceeding for which the subpoena is requested.

C. A subpoena adapted from the Louisiana Code of Civil Procedure formulary is acceptable. Sample subpoena forms are available from the administrative hearings clerk.

D. Failure of a witness to appear or respond to a subpoena will not be grounds for a continuance or dismissal unless Paragraph B.1 above has been complied with, and the request for the subpoena was received by the Division at least 10 days before the date required for appearance, production or inspection. However, the administrative law judge may grant a continuance when the interest of justice requires it.

E. Only the administrative law judge may dismiss a witness who appears at a hearing pursuant to a subpoena issued by the Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§521. Discovery**

A. Any party to a proceeding may conduct discovery in all manners as provided by law in civil actions as provided by R.S. 49:956.

B. In the interest of administrative economy, the parties should first attempt to obtain discovery by agreement or through the Public Records Act, R.S. 44:1 et seq.

C. The administrative law judge, for good cause, may issue any order to protect a party or person from annoyance, embarrassment, oppression, disclosure of confidential information, undue burden or expense.

D. The following Section applies only in cases adjudicated pursuant to the Louisiana Implied Consent Law, R.S. 32:661 et seq.

1. Requests for discovery should be made at the same time as the request for hearing.

2. Failure to request discovery at the time the hearing request is filed may result in a continuance if a response is not timely received, but not necessarily a dismissal of the case.

AUTHORITY NOTE: Promulgated in accordance with R. S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§523. Exhibits**

A. Maps, drawings and other exhibits should not exceed 8 ½ by 14 inches unless they are folded or reduced to the required size.

B. During the hearing, copies of exhibits should be furnished to the administrative law judge and all parties, unless the administrative law judge rules otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

**§525. Confidentiality**

A. Except as otherwise provided by law, all portions of adjudicatory records are subject to review by all parties and the general public.

B. A motion for protective order, or other request to limit discovery, may be considered as a request for confidentiality. In the event a protective order is issued or discovery is otherwise limited, the administrative law judge may designate in writing as confidential that portion of the adjudicatory record necessary to enforce the provisions of the protective order.

C. Any portion of the adjudicatory record deemed to be confidential by statutory authority should be brought to the attention of the Division in order to help ensure the confidentiality of that portion of the record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

**§527. Prehearing Order**

A. The administrative law judge may require, prior to the adjudicatory hearing, that the parties submit a joint proposed prehearing order approved and signed by all parties or their counsel of record. Except as otherwise ordered by the administrative law judge, the proposed prehearing order should set forth the following:

1. a brief but comprehensive statement of the factual and legal contentions of each party;
2. a list of the legal authority (including statutes, code articles, regulations and cases) to be relied upon by each party at the adjudicatory hearing;
3. a detailed itemization of all pertinent uncontested facts established by pleadings, stipulations and admissions;
4. a detailed itemization of all contested issues of fact;
5. a list of all contested issues of law;
6. a list and brief description of all exhibits to be offered in evidence by each party. Exhibits to be used solely for impeachment or rebuttal need not be included on the list;
7. a list naming the fact witnesses and the expert witnesses each party may call and a short statement as to the nature of their testimony. Witnesses to be called solely for impeachment or rebuttal need not be included on the list;
8. a list of all matters to be officially noticed;
9. a statement by each party as to the estimated length of time necessary to present its case;

10. all other stipulations;
11. a list of all pending motions;
12. a statement as to any other matters that may be relevant to a prompt disposition of the case;
13. the following certification: "We hereby certify that we have conferred for the purpose of preparing this joint proposed prehearing order and that we have no objections to the contents of this prehearing order other than those attached hereto"; and this order:

"IT IS ORDERED that this matter be set for hearing at \_\_\_\_\_ o'clock, \_\_.M. on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ and to continue thereafter until completed."

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ADMINISTRATIVE LAW JUDGE

B. In the event that any party disagrees with the proposed prehearing order, or any part thereof, he shall attach to the order a signed statement of his opposition and reasons therefor but shall, nevertheless, sign the joint proposed prehearing order which shall be deemed to be approved in all respects except those covered in the statement of opposition.

C. The person who has certified the prehearing order should attend the prehearing conference and the adjudicatory hearing. Any counsel or other representative attending the prehearing conference shall be knowledgeable of aspects of the case and possess the necessary authority to commit his client, associate counsel and witnesses to changes, stipulations and hearing dates.

D. At the conclusion of the prehearing conference, the administrative law judge shall sign the order setting the case for the adjudicatory hearing. Thereafter no amendments to the prehearing order shall be made except at the discretion of the administrative law judge based upon consent of the parties or for good cause shown. If a party fails to cooperate in preparing or filing a prehearing order, the administrative law judge may proceed with the prehearing conference, sign the prehearing order as drafted, continue the prehearing conference, continue the hearing, or order such other action as necessary to facilitate the hearing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

### **§529. Rehearing, Reopening, Reconsideration**

A. Unless otherwise provided by law, a decision on the merits shall become final as to any party thirty days after mailing of the notice unless a petition for reconsideration, reopening or rehearing is filed with the Division within ten days from date of mailing pursuant to R.S. 49:959.

B. Any requests for reconsideration, reopening or rehearing shall be granted or denied by the administrative law judge who originally decided the case or any judge to whom the matter is subsequently assigned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

**§531. Termination of Adjudications; Voluntary Withdrawal; Involuntary Waiver; Failure to Appear; Abandonment**

A. The administrative law judge may issue an order terminating an adjudication based upon voluntary waiver, withdrawal of the request for a hearing, rescission by the agency of the underlying action, settlement, stipulation, consent order, or any other procedure allowed by law.

B. In accordance with R.S. 49:955.A, a party who requests an administrative hearing may be deemed to have waived its right to a hearing if after having been provided with reasonable notice the party fails to appear on the day and time set for hearing. In such instances, the rule to show cause, hearing request, or the party's appeal may be dismissed based on the party's waiver of the right to a hearing. The order of dismissal shall be mailed to the party's last known address.

C. Abandonment

1. Except as otherwise provided by law, an action is abandoned when the parties fail to take any step in its prosecution or defense for a period of three years.

2. This provision shall be operative without formal order. However, on ex parte motion of any party, other interested person or the administrative hearings clerk, supported by affidavit, the administrative law judge shall enter an order of dismissal as of the date of its abandonment.

3. The affidavit shall specify that no step has been taken for a period of three years in the prosecution or defense of the action.

4. The order shall be mailed to all parties, and the parties shall have thirty days from date of mailing to move to set aside dismissal based on a showing of good cause.

5. Any formal discovery as authorized by these Rules and the Administrative Procedure Act and served on all parties, whether or not filed of record, including the taking of a deposition with or without formal notice, shall be deemed to be a step in the prosecution or defense of an action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

## **Chapter 7. Mediation**

### **§701. Mediation**

- A. Any party may request a pre-trial mediation conference.
- B. Mediation shall not be conducted over the objection of a party.
- C. The administrative law judge to whom the case was originally assigned shall not conduct the mediation. The order setting the matter for mediation shall designate another administrative law judge to act as mediator.
- D. Each party, representative or attorney shall negotiate in good faith, and be prepared to obtain the authority necessary to settle and compromise the litigation. The mediator may permit telephone appearances in lieu of a personal appearance for good cause and convenience of the parties.
- E. Mediation shall not unduly delay the hearing schedule. The presiding administrative law judge may continue scheduled dates on motion of a party or on his/her own motion.
- F. Confidentiality of mediations shall be governed by R.S. 9:4112.
- G. Each party or representative should submit information sufficient to explain the gist of the case to the assigned mediator at least one day prior to the conference. The submittals need not be in any certain form and may consist of any documents, exhibits or writings the party wishes the mediator to consider before the conference. The mediator may use all statements, documents, exhibits or other types of information submitted, as he/she deems appropriate to foster settlement unless a party has expressly stated otherwise.
- H. The mediator shall not draft settlement agreements. Agreements may be recited on the record before the presiding administrative law judge and later reduced to writing by the parties or their representatives.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 28:000 (January 2002).

## **Chapter 8. Ethics Adjudicatory Board**

### **§801. Selection of Board Members and Panels**

A. Public Meeting. The selection of the Ethics Adjudicatory Board will take place during a public meeting of the Louisiana Board of Ethics.

B. Random Selection Process

1. The director of the Division of Administrative Law, or his designee, shall place into a container, the names of all probationary and permanent Division of Administrative Law administrative law judges who meet the statutory qualifications. They must have:
  - a. not less than two years experience as an administrative law judge; or
  - b. not less than 10 years experience in the practice of law.
2. The director or his designee shall blindly select seven names from the container, one at a time. Each name shall be recorded and assigned a number, according to the order of its selection.

C. Term of Board. These seven administrative law judges shall constitute the Ethics Adjudicatory Board. The Ethics Adjudicatory Board members shall be selected in December of the year preceding the year on which the terms are to begin on January 1.

D. Three Judge Panels. The judges shall sit in three judge panels. The first three names selected shall be a three judge panel designated "A." The next three names selected shall be a three judge panel, "B." When a new case is docketed, it will be allotted alternately between the two panels. A case docketed and assigned to panel A or B shall remain with that designated panel letter until final decision.

E. Alternate Judge. The seventh name selected shall be an alternate administrative law judge to be substituted for administrative law judges who are unavailable due to recusal, end of employment with the Division of Administrative Law, or for other good cause.

F. A vacancy on the Ethics Adjudicatory Board shall be filled for the unexpired term at the next public meeting of the Board of Ethics and in the same manner as for the original selection. The last selected judge shall serve as the alternate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq., and R.S. 42:1141.2.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:1346 (July 2008), amended LR 38:2949 (November 2012).

### **§803. Recusal of an Ethics Adjudicatory Board Member**

A. An Ethics Adjudicatory Board member shall voluntarily recuse himself and withdraw from any adjudication in which he cannot accord a fair and impartial hearing or consideration, when required by applicable rules governing the practice of law in Louisiana or for other good cause such as conflict of interest. Applicable recusal provisions include R.S. 49:960, R.S. 49:999, or other conflict of interest provisions.

- B. When an Ethics Adjudicatory Board member is recused from a panel or a case to be adjudicated, the alternate administrative law judge shall be assigned to the panel or case.
- C. In the event the alternate judge is unavailable, the administrative hearings clerk shall randomly select a name from the remaining Ethics Adjudicatory Board members by placing their names in a container and blindly selecting one. The selected individual shall be substituted on the panel or the case.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq.

HISTORICAL NOTE: Promulgated by Department of Civil Service, Division of Administrative Law, LR 34:1346 (July 2008).

**§805. Panel Procedure**

- A. The panel shall select the administrative law judge who will preside over the hearing.
- B. The determination of the majority of the panel in a particular case shall be the determination of the Ethics Adjudicatory Board.
- C. After the hearing, the presiding judge shall assign authorship responsibility for the determination.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq., and R.S. 42:1141.5.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:1346 (July 2008), amended LR 38:2949 (November 2012).

**§807. Appeals to the Court of Appeals**

- A. When a decision of the Ethics Adjudicatory Board is appealed to the Court of Appeals, copies of the motion for appeal shall be served upon the Division of Administrative Law and all parties of record.
- B. The Division of Administrative Law shall prepare the record on appeal after payment of costs pursuant to §305 of these rules.
- C. Any motion for an appeal shall comply with the local rules of that court and Uniform Rules of Louisiana Courts of Appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:991 et seq., and R.S. 42:1142.

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Division of Administrative Law, LR 34:1346 (July 2008), amended LR 38:2949 (November 2012).

Ann Wise  
Director  
0201#024