

item, or application, and to this end, the invalidated provision, item, or application of these rules is hereby declared severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 38:2311.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Landscape Architects Selection Board, LR 1:315 (July 1975), repromulgated LR 5:79 (April 1979), amended by the Office of the Governor, Office of Facility Planning and Control, LR 45:1200 (September 2019).

Chapter 9. Veterans' Affairs

Subchapter A. Veterans' Affairs Commission

§901. Office of the Secretary

A. There shall be a secretary of veterans affairs who shall be appointed by the governor with consent of the senate. Any person appointed as secretary shall be a veteran. He shall serve at the pleasure of the governor at a salary fixed by the governor which salary shall not exceed the amount approved for such position by the legislature while in session. The secretary shall serve as the executive head and chief administrative officer of veterans affairs and shall have the responsibility for the policies of the department and for the administration, control, and operation of the functions, programs, and affairs of the department as provided by law. He shall perform his functions under the general control and supervision of the governor.

B. There may be a deputy secretary of veterans affairs who shall be appointed by the secretary with consent of the senate and who shall serve at the pleasure of the secretary at a salary fixed by the secretary, which salary shall not exceed the amount approved for such position by the legislature while in session. The duties and functions of the deputy secretary shall be determined and assigned by the secretary. If appointed, he shall serve as acting secretary in the absence of the secretary.

C. There shall be an undersecretary of veterans affairs who shall be appointed by the governor with consent of the senate and who shall serve at the pleasure of the governor at a salary fixed by the governor, which salary shall not exceed the amount approved for such position by the legislature while in session. The undersecretary shall direct and be responsible for the functions of the office of management and finance within veterans affairs. In such capacity, he shall be responsible for accounting and budget control, procurement and contract management, data processing, management and program analysis, personnel management, and grants management for the department and all of its offices, including all agencies transferred to veterans affairs.

D. The domicile of the Department of Veterans Affairs shall be Baton Rouge, where suitable offices will be provided under R.S. 29:252.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:781 and 783-786.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1015 (April 2012).

§902. Powers and Duties of the Secretary

A. In addition to the functions, powers, and duties otherwise vested in the secretary by law, he shall:

1. Represent the public interest in the administration of this chapter and shall be responsible to the governor, legislature, and the public therefore.

2. Determine the policies of the department, except as otherwise provided by law.

3. Organize, plan, supervise, direct, administer, execute, and be responsible for the functions and programs vested in the department, in the manner and to the extent provided by law, including but not limited to:

- a. veterans home operations;
- b. veterans benefits assistance;
- c. homeless veteran outreach;
- d. state veterans cemetery operations;
- e. Louisiana honor medal distribution;
- f. educational support, including State Approving Agency operations and the LaVetCorps campus veteran center program;
- g. the Gold Star Family Support Program;
- h. Military Family Assistance Fund administration;
- i. veteran owned business support, including but not limited to Veterans Initiative support;
- j. veteran employment support;
- k. incarcerated veteran support and readjustment support when appropriate;
- l. other functions deemed necessary by the secretary and not prohibited by law.

4. Advise the governor on problems concerning the administration of the department and veterans issues.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:781 and 783-786.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1015 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1588 (November 2019).

§903. Officers (Formerly §901)

A. The Veterans Affairs Commission shall be composed of nine members who are honorably discharged veterans, citizens of the United States of America and of this state, and who are qualified voters.

B. The chairman and vice chairman of the commission shall be elected at the first meeting following the governor's

appointment of the total commission or at the first meeting held following July 1 in even-numbered years.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253 and R.S. 36:781.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012).

§905. Members

A. Each member may be paid \$75 each day devoted to the work of the commission, but not more than \$1,500 in any one fiscal year.

B. Commission members may also be entitled to reimbursement for necessary travel and other expenses, in accordance with current state travel regulations.

C. Monies under this Section may only be paid when available.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253 and R.S. 36:781.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended by the Office of the Governor, Veterans Affairs Commission, LR 20:48 (January 1994), LR 25:2211 (November 1999), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012).

§907. Meetings

A. The commission shall hold its regular meeting in the administrative office in Baton Rouge, unless, at the discretion of the chairman, it is necessary or convenient in the performance of its duties, to meet in some other city or location.

B. The commission may hold at least one regular meeting in each quarter, annual period, at the administrative office in Baton Rouge.

C. The commission can hold special meetings at times and places specified by call of the chairman, or a majority of the commission, upon written notice of time and place by the secretary.

D. A majority of commission members (five) constitutes a quorum for the transaction of business.

E. No action will be taken by the commission without the concurrence of at least five members physically present and voting.

F. No commission member shall vote by proxy, by representation, or by mail.

G. The secretary of veterans affairs shall keep adequate records and minutes of official actions and distribute copies to each member as soon as practical.

H. The commission shall meet semi-annually with the secretary and his staff for the purpose of reviewing the overall operation and upgrading of the department.

I. No meeting of the commission shall exceed a maximum of two days.

J. Two-day meetings or weekend meetings of the commission are not to be scheduled unless there is valid justification and/or unusual circumstances.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:253 and R.S. 36:781.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 7:486 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1588 (November 2019).

§911. Travel

A. Travel will only be authorized on days that per diem is paid, unless prior approval is granted by the secretary or his designated representative. Travel must be for official state business.

B. All travel vouchers for the commission members shall be authorized by the secretary in accordance with adopted rules relating to travel.

C. The secretary shall keep the chairman and all members of the commission apprised of the availability or no availability of travel monies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans Affairs, LR 7:486 (October 1981), amended LR 20:48 (January 1994), LR 24:936 (May 1998), LR 25:2211 (November 1999), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1016 (April 2012).

Subchapter B. State Educational Aid Program

§917. Eligibility

A. Application must be made through the Parish Veterans Service Office. In order to be eligible to receive educational benefit under R.S. 29:288 et seq., the following criteria must be met.

1. In the case of a member of the armed forces of the United States of America who has been killed in action or died in active service from other causes or who is missing in action or who is a prisoner of war, or in the case of a veteran who died as a result of a service-connected disability incurred during a wartime period as determined by the United States Department of Veteran Affairs, that service member's or veteran's children or surviving spouse may apply for educational benefits under R.S. 29:288 et seq.

2. In the case of a living veteran who has been rated 90 percent or above service-connected disabled by evaluation according to the United States Department of Veterans Affairs rating schedule or a living veteran who has been determined to be unemployable as a result of a service-connected disability by evaluation of the United States Department of Veterans Affairs Rating Schedule, that

veteran's children may apply for educational benefits under R.S. 29:288 et seq.

3. The qualified deceased veteran must have been a Louisiana resident for at least one year immediately preceding his entry into service.

4. The qualified living veteran must have been a resident of Louisiana for at least two years immediately preceding admission of the child into a training institution.

5. Any child applicant applying for these educational benefits must be not less than 16 nor more than 25 years of age, and marriage is not a bar to the program. Child applicants must meet the dependence requirements of the United States Department of Veterans Affairs pursuant to 38 CFR §3.57 and §3.204 through §3.211.

6. The spouse has no age limit but must use the benefit within 10 years of the date eligibility is established. Remarriage is a bar to this benefit. Dissolution of the remarriage does not re-establish eligibility. Program termination for a remarried surviving spouse will be the end of the semester in which the marriage takes place.

7. The eligible student must attend school on a full-time basis and maintain all academic and other enrollment standards established by the school.

8. The eligible student may attend any state college or university, including institutions under the jurisdiction of the Board of Supervisors of Community and Technical Colleges; all entrance requirements for such institution must be met.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288, R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981), amended LR 13:743 (December 1987), LR 19:1565 (December 1993), LR 23:1685 (December 1997), LR 26:2211 (November 1999), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1588 (November 2019).

§919. Fee Exemption Certificate

A. A fee exemption certificate must be issued to each eligible applicant upon completion of his/her processed claim in the administrative office, Department of Veterans' Affairs, reflecting exemption from payment of all tuition and school-imposed fees for the forthcoming school semester or term.

B. The registration certificate must be signed by a school official indicating date of enrollment and returned by the student or his/her designee to the administrative office, Department of Veterans' Affairs, within 45 days after the beginning of the semester, in order to receive a possible payment of cash subsistence allowance for the semester pursuant to R.S. 29:289, provided that funds have been appropriated for that purpose.

C. If the student transfers from one school to another, the original fee exemption certificate may be taken to the new school, or the student may request from the administrative

office the issuance of another fee exemption to be used at his/her next school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1588 (November 2019).

§921. Maximum of Four Years

A. Tuition exemptions under R.S. 29:288 et seq. and possible payments of cash subsistence allowances under R.S. 29:289 may be given for a maximum of four years of education, to be completed in not more than five years from the beginning date of the first semester for which educational benefits are approved by the Department of Veterans' Affairs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:485 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1589 (November 2019).

§923. Not Covered

A. Fees assessed by the student body on themselves, such as yearbook, weekly paper, are not exempt. Free registration does not cover books, supplies, room and board, etc.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:288.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 7:486 (October 1981), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1589 (November 2019).

Subchapter C. Veterans' Home

§937. Admission Requirements

A. For admission to a Louisiana State Veterans Home, a veteran must be a resident of Louisiana. State residence is not mandatory if applicant is referred from an in-state United States Department of Veterans Affairs Medical Center, or by a Louisiana Department of Veterans Affairs veterans assistance counselor. The veteran must be recommended by the home administrator and approved for admission.

B. The veteran must have served on active military duty 90 days or more, or if less than 90 days, discharged due to a disability incurred in the line of duty and must be in receipt of a discharge under honorable conditions for his/her latest period of active military service.

C. The veteran must undergo a medical examination prior to admission and, as a result, it must be confirmed that he/she does not have a communicable disease, does not require medical or hospital care for which the home is not equipped to provide, and does not have violent traits which may prove dangerous to the physical well-being of the other residents or employees.

D. The veteran must consent to abide by all rules and regulations governing the home and to follow the course of treatment as prescribed by the home's medical staff.

E. The veteran, or party responsible for his/her financial matters, must agree to pay the full resident care and maintenance fee. The administrator, with authorization from the secretary, may waive or defer any charge that exceeds the veteran's income.

F. An applicant for admission to the veteran home must not have criminal charges pending against him/her.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 13:570 (October 1987), LR 18:269 (March 1992), LR 21:801 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1589 (November 2019).

§939. Care and Maintenance Fees

A. Care and maintenance fees will be based on total family income. This includes income from all sources (including but not limited to Social Security, United States Department of Veterans Affairs pension/compensation, private pension, account balances and interest from bank accounts or savings accounts, and/or interest bearing accounts/investments).

B. In no case will the fee charged to the resident be more than the actual cost of care, as determined by the secretary.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:384, R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:801 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1589 (November 2019).

§943. Nursing Care Resident Fee

A. Patients will be allowed to retain the first \$90 per month for personal spending and appropriate deduction(s) for any legal dependent(s) as specified in §941.C, effective July 1, 2002. All remaining income must be applied to the care and maintenance fee until maximum care cost is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 28:2509 (December 2002).

§945. Mandatory Election for Benefits

A. Residents must apply for all monetary benefits to which they may be entitled from both the state and federal government. Any increase, as a result thereof, must be applied to care and maintenance fees until maximum cost of care is reached.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 45:1589 (November 2019).

§947. Fee Payable in Advance after Admission

A. Care and maintenance fees are payable one month in advance. These fees are due before the tenth of each month. A portion of a month will be prorated according to the number of days stay. Residents will not be charged care and maintenance fees for periods of hospital confinement in excess of 10 days unless they desire that a bed be held until they return. For periods of leave from the home, care and maintenance fees are payable as arranged with the home administrator or his designee. Residents who are unable to pay charges in advance will be allowed to prorate the advance month fee over a 12-month period, until the month of entry fee is current.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1017 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1589 (November 2019).

§949. Fees Adjusted

A. Care and maintenance fees will be adjusted when it has been established that there is a change in the veteran's total family income. The home reserves the right to obtain updated income information from the resident or his/her responsible party (signed authority at admission by patient, and/or responsible party, or any other source). The home also reserves the right to establish retroactive charges effective to the date a change of income occurs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 45:1590 (November 2019).

§951. Additional Fees

A. In addition to the regular care and maintenance fees collected, if less than the maximum monthly amount, and the patient has an accumulation of funds, either through additional recurring income or through one or more deposits

into bank or savings accounts, in excess of \$500, if single, and \$7,500, if married, the patient resident will be assessed an amount that would bring his care and maintenance fees up to the maximum allowable per month until their funds are reduced to the above stated balance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 45:1590 (November 2019).

§953. Home Administrator Authority When Incorrect Income Given

A. The home administrator, when provided incorrect total family income information, will avail himself of all state laws to recoup all monies that should be made available to the home for care and maintenance fees, retroactive to the time that these monies became available for the resident's use while he/she was residing at a Louisiana state veterans' home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:261, R.S. 29:384.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), LR 45:1590 (November 2019).

§955. Unusual Financial Circumstances

A. All residents at a veterans home who feel they have unusual financial circumstances/hardships can request relief and consideration of a waiver or deferment of care and maintenance fees. Residents may apply for this consideration through the home administrator. All requests must include documentation demonstrating the financial circumstance or hardship claimed. The home administrator will forward the request, with an appropriate recommendation, to the secretary for approval or disapproval.

B. All waivers or deferments that are in force will be re-evaluated annually on anniversary month. The home administrator will make a report of re-evaluation, with recommendations on each case, to the secretary for further consideration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 29:254.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Office of Veterans' Affairs, LR 9:411 (June 1983), repromulgated LR 9:549 (August 1983), amended LR 11:34 (January 1985), LR 13:86 (February 1987), LR 13:161 (March 1987), LR 21:802 (August 1995), amended by the Office of the Governor, Department of Veterans Affairs, Veterans Affairs Commission, LR 38:1018 (April 2012), amended by the Office of the Governor, Department of Veterans Affairs, LR 45:1590 (November 2019).

Subchapter D. Military Family Assistance Program Fund

§961. Authority

A. Rules and regulations are hereby established by the Military Family Assistance Board by order of the Military Family Assistance Act, R. S. 46:121 et seq., Act 151 of the 2005 Louisiana Legislature and amended by Act 676 of the 2008 Louisiana Legislature, Act 256 and 877 of the 2010 Louisiana Legislature, Acts 156 and 281 of the 2012 Louisiana Legislature, Acts 185 and 402 of the 2016 Louisiana Legislature, Acts 3 and 60 of the 2017 Louisiana Legislature, and Act 206 of the 2018 Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1606 (June 2011), amended LR 45:1590 (November 2019).

§963. Construction of Regulations; Severability

A. Nothing contained in these rules shall be so construed as to conflict with any provision of the Act or any other applicable statute. If any provision of any rule or regulation is held invalid by any state or federal court in Louisiana, such provision shall be deemed severed from the rule and the court's finding shall not be construed to invalidate any of the other provisions of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1606 (June 2011).

§965. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

Activated Military Personnel or *Activated Military Person*—a person domiciled in Louisiana for civilian purposes, names Louisiana as home of residence (HOR) for military purposes, and who is a member of a reserve component of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, including the Louisiana National Guard, and called to active federal service in excess of 30 days or who is a member of the Louisiana National Guard and called to active state service pursuant to Louisiana R.S. 29:7, or who is a veteran of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, as defined in R.S. 46:121.

Application—a written request for financial assistance from the Military Family Assistance Fund made on the form captioned Military Family Assistance Fund Application, together with documents related thereto.

Approval Authority—the third party administrator for all need-based claims of \$1500 or less; the fund committee for all need-based claims of greater than \$1500 up to \$2500; and the board for all need-based claims of greater than \$2500. The fund committee and the board are the approval authority

for all claims for one-time lump sum payments and all claims appealed by an eligible applicant.

Board—the Louisiana Military Family Assistance Board.

Claimant—an eligible applicant.

Eligible Applicant—activated military personnel or a family member of activated military personnel as defined in R.S. 46:121.

Family Member of Activated Military Personnel—the primary next of kin or an immediate family member.

Final Appeal—an appeal to the Louisiana Military Family Assistance Board.

Fund Committee—the committee comprised of three board members appointed by the chairman of the board to assist in administering the Louisiana Military Family Assistance Fund which committee shall also serve as an appellate body for all claims of \$1500 or less before a final appeal is made to the full board.

Honorably Discharged Active-Duty Military Personnel—a person domiciled in Louisiana who was on full-time active duty in the military service of the United States and received an honorable discharge.

Immediate Family Member—with respect to an activated military person:

- a. spouse;
- b. a natural child, adopted child, step child, or illegitimate child, if acknowledged by the person or parenthood has been established by a court of competent jurisdiction, except that if such child has not attained the age of 18 years, the term means a surviving parent or legal guardian of such child;
- c. any other person claimed as a dependent on the federal income tax of the activated military person;
- d. a biological or adoptive parent, unless legal custody of the person by the parent has been previously terminated by reason of a court decree or otherwise under law and not restored;
- e. a brother or sister of the person, if such brother or sister has attained the age of 18 years; or
- f. any other person, if such person was given sole legal custody of the person by a court decree or otherwise under law before the person attained the age of 18 years and such custody was not subsequently terminated before that time.

Outreach—activities directed at improving or strengthening veteran initiatives, activities or problems.

Third Party Administrator—the Louisiana Department of Veterans Affairs Benefits Division, or a designee of the Secretary of the Louisiana Department of Veterans Affairs.

Veteran—means any service member of the United States Armed Forces who has met any of the following conditions:

- a. completed either 24 months of continuous active duty or the full period of not less than 90 days for which he or she was ordered to active duty, other than active duty for training, and received either an honorable discharge or a general discharge under honorable conditions.
- b. completed at least 90 days of active duty and has been discharged under the specific authority of 10 U.S.C. §1171 or §1173, or has been determined to have a compensable service-connected disability.
- c. has received a discharge with less than 90 days of service for a service-connected disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended LR 45:1590 (November 2019).

§967. Eligibility

A. To be eligible for a grant from the Military Family Assistance Fund, an individual must be either an activated military person or the family member of an activated military person as defined in R.S. 46:121.

B. The activated military person must have served in excess of 30 consecutive days of active duty since September 11, 2001, before the activated military person or any family member may submit an application for assistance to the Military Family Assistance Fund.

C. Pursuant to R.S. 46:121, a veteran who applies for assistance from the Military Family Assistance Fund must be a current resident of Louisiana.

D. The Military Family Assistance Fund is a payer of last resort. All applicants shall seek assistance from other available sources prior to making application to the Military Family Assistance Fund. Other available sources include, but are not limited to, Army Emergency Relief, Air Force Aid Society, Navy-Marine Corps Relief Society, Coast Guard Mutual Assistance, Salvation Army, American Red Cross, and Veterans' Emergency Assistance.

E. The approval authority may, in its sole discretion, waive the requirement to seek assistance from other available sources when unusual or exigent circumstances make such application impractical or unlikely to produce results in a timely manner or when the applicant shows that the circumstances are such that other potential sources of funds are inapplicable to the particular circumstances.

F. Requests for assistance from the Military Family Assistance Fund shall not be bifurcated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended LR 45:1591 (November 2019).

§969. Application Process**A. Eligible Applicant Responsibilities**

1. All requests for assistance shall be made through a completed Military Family Assistance Fund Application.

2. An application is not complete unless it is signed by the applicant and contains all information requested by the form.

3. All applicants shall provide all additional information requested by the Military Family Assistance Board, the fund committee, or the third party administrator. Failure to provide additional requested information may result in the denial of the application.

4. Applications for assistance from the Military Family Assistance Fund shall include copies of applications for other types of assistance filed by the applicant.

5. Applications, together with all supporting documents, may be faxed to the MFA Fund third party administrator, may be submitted electronically or online through the Military Family Assistance Fund application submission process provided on the Department of Veterans Affairs website, or may be mailed to: Department of Veterans Affairs, Attn: MFA Third Party Administrator, P.O. Box 94095, Baton Rouge, LA 70804-9095.

6. An application for assistance from the Military Family Assistance Fund shall be considered made as of the date that it is received by the third party administrator.

7. If an individual acts on behalf of an eligible applicant in preparing and submitting the application, a copy of a fully executed power of attorney authorizing the individual preparing and submitting the application to act on the eligible applicant's behalf must be submitted as an attachment to the application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011), amended LR 45:1591 (November 2019).

§971. Types of Grants; Restrictions on Awards

A. Three types of grants may be made by the Military Family Assistance Fund:

1. grants for need-based assistance;
2. grants for one-time lump sum awards; and
3. grants for transportation and other related costs as authorized by the board.

B. No request shall be approved by the board, the fund committee, or the third party administrator that does not meet the requirements of the law or the rules.

C. The request of an eligible applicant may be denied if the activated military personnel is not in good standing with the appropriate military unit at the time the application is submitted or the time payment is made.

D. The board may disapprove a request for assistance if the board determines that the grant of an award under the facts and circumstances of a particular case is not be in the best interests of the board or the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1608 (June 2011).

§973. Award Amounts

A. The maximum dollar amount that may be awarded on behalf of an activated military person for a need-based claim per 12 month period is \$10,000.

B. One uniform maximum dollar amount that may be awarded on behalf of an activated military person for a one-time lump sum award shall be \$700. With respect to one-time lump sum awards, the following shall apply.

1. An eligible applicant may be awarded an additional one-time lump sum award for cost directly related to a service related death or an injury with a greater than 50 percent residual disability.

2. One-time lump sum awards are in addition to, and not in lieu of, need-based awards.

3. A one-time lump sum award may be made only when extenuating circumstances are present. Extenuating circumstances include, but are not limited to:

a. the circumstance in which the injured military person is recuperating in a location away from home that necessitates travel by family members to visit with the injured military person. Costs associated with transportation, lodging, meals, and other related matters not covered by any other source to enable family members to visit an activated military person with a service related injury with a greater than 50 percent residual disability, whether the extent of the disability has been determined at the time application is made or is reasonably anticipated to result in a greater than 50 percent residual disability at the time application is made, may be requested;

b. the circumstance in which the funeral of an activated military person necessitates travel by family members to attend the funeral. Costs associated with transportation, lodging, meals, and other related matters not covered by any other source to enable family members to attend the funeral of an activated military person may be requested;

c. the circumstance in which the absence of family members to visit the injured activated military person or attend the funeral of the activated military person creates financial needs for the care of a home, pets, children, or others when the financial need is not covered by any other source;

d. such other extenuating circumstances as may be determined on a case-by-case basis by the fund committee.

4. Family members of activated military personnel who are listed as missing in action or prisoner of war by the U.S. Department of Defense shall be eligible for the lump sum award. The activated military person must be listed as missing in action or a prisoner of war on or after September 11, 2001.

C. With respect to grants for transportation and other related costs of activated military personnel, the following shall apply.

1. One transportation request shall be approved per person per period of mobilization, and pay no greater than \$500 per applicant.

2. The utilization of the lowest cost fare and group rates with other applicants, where practicable, shall be encouraged.

3. The awarded amount shall be subtracted from the maximum dollar amount of \$10,000 per applicant per 12-month period.

4. Consideration for assistance will be limited to activated military personnel whose deployment is for overseas only.

5. Requests for assistance must have the approval from the adjutant general and/or commanding officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1608 (June 2011), amended LR 45:1591 (November 2019).

§975. Minimum Funding Levels; Reserve Level; Calculation of Funds Available for Payment of One-Time Lump Sum Awards

A. The Military Family Assistance Fund shall have a minimum of \$150,000 on deposit for the Military Family Assistance Program to become operational.

B. At all times the fund shall have a reserve of a minimum of \$15,000.

C. For fiscal year 2006/2007, the maximum percentage of the Military Family Assistance Fund that may be directed to one-time lump sum awards shall not exceed five percent. The percentage shall be based on the amount of funds on deposit in the Military Family Assistance Fund as of the date of the approval of these rules.

D. For fiscal year 2007/2008 and each succeeding fiscal year, the maximum percentage of the Military Family Assistance Fund that may be directed to one-time lump sum awards shall not exceed 20 percent. This percentage shall be based on the amount of funds on deposit in the Military Family Assistance Fund as of the first day of the fiscal year.

E. Award amounts directed to transportation and other related costs of activated military personnel shall not exceed 30 percent of the funds on deposit in the Military Family Assistance Fund on the first day of the fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1609 (June 2011).

§977. Third Party Administrator

A. The third party administrator shall receive all need-based applications, all applications for one-time lump sum assistance, and all applications for transportation and other related costs assistance.

B. The third party administrator is authorized to review, process, approve and remit payment on all need-based applications of \$1500 and less. In no event shall the third party administrator remit payment on any request that exceeds \$1500 without the prior express written approval of the board or the fund committee.

C. The third party administrator is authorized to disapprove need-based applications for \$1500 or less if the eligible applicant fails to show that all requirements set forth in the law and the rules are met. The eligible applicant has the right to appeal such disapproval to the fund committee.

D. With respect to need-based applications of \$1500 and less, the third party administrator is authorized to approve the claim in part and disapprove the claim in part. The eligible applicant has the right to appeal the third party administrator's disapproval of any part of its need-based claim to the fund committee.

E. For all need-based applications received, regardless of the dollar amount of the request, the third party administrator shall make a determination on the following issues:

1. that all awards are on behalf of activated military personnel as defined in R.S. 46:121;

2. that all awards are made pursuant to a claim that is made by an eligible applicant;

3. that all awards are need-based. The third party administrator, fund committee or Military Family Assistance Board may consider a claim need-based if all of the following apply:

a. the funds are requested for necessary expenses incurred or to be incurred;

b. the necessary expenses created or will create an undue hardship on the activated military person or family member;

c. the undue hardship can be directly or indirectly related to the activation of the military person or honorable discharge of the active-duty military person;

d. the activated military person or family member does not have reasonable and timely access to any other funding source;

e. payment of the claim does not supplant other available public or private funds; and

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f. the applicant or family member has made reasonable attempts to secure alternative funding through another program, recognizing that the approval authority in its discretion accorded under these rules may waive the requirement for that applicant to have sought this alternative funding.

F. For all one-time lump sum applications, the third party administrator shall make an initial determination of whether extenuating circumstances exist that support approval of the application.

G. After making the determinations set forth above, the third party administrator shall, for all need-based applications requesting assistance in an amount greater than \$1500 and for all one-time lump sum applications, forward the application together with all supporting documents and the determination to the fund committee for further review and processing, approval or disapproval, and payment by the third party administrator in the event of approval.

H. If the third party administrator approves a request of \$1500 or less, it shall determine when the claim shall be paid, the amount of payment, to whom the payment shall be made, and such other matters as it deems necessary and appropriate.

I. The third party administrator shall make a written determination on all applications for assistance as soon as possible.

1. In no event shall the time period between receipt of the completed application by the third party administrator and release of the written determination by the third party administrator exceed 30 calendar days.

2. The written determination shall be:

- a. to approve the claim;
- b. to disapprove the claim;
- c. to request additional information or documentation regarding the claim; or
- d. to schedule a meeting with the eligible applicant to discuss the claim.

J. If the third party administrator schedules a meeting, it shall make a determination within 15 days following the date that such meeting actually takes place. The determination shall be to either approve or disapprove the claim.

K. If the third party administrator fails to make a written determination within the time periods set forth in these rules, the claim shall be considered disapproved. The eligible applicant may then lodge an appeal within the time delays set forth by statute.

L. The third party administrator shall determine that sufficient funds are on deposit for the payment of all approved claims.

M. The third party administrator shall notify the fund committee and the board in writing any time approved applications will cause the Military Family Assistance

Fund's unobligated balance to drop to within \$15,000 of its minimum reserve level.

N. With respect to any application that creates a conflict of interest for the third party administrator, the third party administrator shall refer the application to the fund committee for consideration and action.

O. The third party administrator shall notify the board if it appears that an application is submitted in violation the law and these rules.

P. The third party administrator shall submit such reports to the Fund Committee and the board as are requested.

Q. The third party administrator may refer need-based requests for assistance to the fund committee for determination if the third party administrator suspects that the grant of an award under the facts and circumstances of a particular case may not be in the best interests of the Board or the state of Louisiana.

R. The third party administrator's expenses in the administration of the program shall be paid from the balance of the Military Family Assistance Fund, but shall not exceed 5 percent of the total amount deposited into the fund in the previous fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1609 (June 2011), amended LR 45:1592 (November 2019).

§979. Fund Committee

A. The Fund Committee shall receive determinations from the third party administrator and make decisions on all need-based applications of greater than \$1500 up to \$2500 and all applications for one-time lump sum assistance.

B. The fund committee shall sit as a board of appeals for the third party administrator's disapproval of all or any part of a need-based application for \$1500 or less. If the fund committee disapproves the eligible applicant's request for assistance, the eligible applicant may appeal the fund committee's disapproval to the military family assistance board.

C. The board chairman shall designate the members of the fund committee and shall select alternates to act on their behalf.

D. The fund committee shall receive the third party administrator's monthly report on applications received and claims paid. The fund committee shall determine the payment of claims when the Military Family Assistance Fund falls to within \$15,000 of its minimum funding level.

E. The fund committee shall instruct the third party administrator with respect to the receipt and processing of all applications for assistance from the fund if the fund falls to within \$15,000 of its minimum funding level.

F. The fund committee may refer need-based requests for assistance and requests for one-time lump sum awards to

the board for determination if the Fund Committee suspects that the grant of an award under the facts and circumstances of a particular case may not be in the best interests of the board or the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1610 (June 2011).

§981. The Board and Chairman of the Board

A. If the board suspects that an application is submitted in violation of the provisions of the law and these rules, it shall refer such application to the appropriate district attorney's office.

B. The board shall provide an annual report to the Joint Legislative Committee on the Budget on the overall activities of the program and any recommendations for consideration.

C. The chairman of the board shall appoint three board members and alternates to serve on the fund committee.

D. The board shall sit as a final board of appeals for all applications disapproved by the fund committee. An eligible applicant shall have no right to appeal the final decision of the board to any other court, tribunal, or hearing body.

E. The board shall make determinations on requests for assistance brought before the board.

F. The board shall exercise oversight of the activities of the third party administrator and the fund committee.

G. The chairman of the board shall provide for state administration of the program, the cost of which shall be paid from the balance of the Military Family Assistance Fund, not to exceed 5 percent of the total amount deposited into the fund in the previous fiscal year.

H. The Secretary of the Louisiana Department of Veterans Affairs may direct up to 10 percent of the total amount deposited into the fund in the previous fiscal year to be spent toward veteran outreach activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1610 (June 2011).

§983. Appeals

A. An eligible applicant may appeal the third party administrator's disapproval of all or any part of the request for assistance to the fund committee within thirty days of the receipt of the written determination disapproving the claim.

B. The fund committee is authorized by these rules to decline to consider any appeal that is not timely filed.

C. An eligible applicant may appeal the fund committee's disapproval of claim to the board within 30 days of the receipt of the written determination disapproving the claim.

D. The board is authorized by these rules to decline to consider any appeal that is not timely filed.

E. The decision of the board on a request for assistance shall be final. The third party administrator, the fund committee, and the eligible applicant shall not have a right to appeal the final decision of the board to any court, tribunal, or hearing body of any kind.

F. The eligible applicant may request reconsideration of a disapproval of claim by the third party administrator, the fund committee, or the board. The request for reconsideration shall be made within 30 days of the date of the eligible applicant's receipt of the written determination disapproving the claim. The request for reconsideration shall be made to the approval authority that disapproved the request for assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1610 (June 2011).

§985. Withdrawal of Applications

A. An eligible applicant and anyone properly acting on behalf of an eligible applicant shall have the right to withdraw the application at any time prior to final disposition of the application by the third party administrator, the fund committee or the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1611 (June 2011).

§987. Waivers

A. Prior to the approval of a claim, applications and the identity of eligible applicants and their related military personnel shall be confidential unless expressly waived by the eligible applicant in writing. The filing of an appeal before the fund committee or the board shall be considered a waiver of the identity of eligible applicants and their related military personnel or veterans.

B. Once a claim is approved, the identity of the eligible applicant, related activated military personnel or veterans, and any person filing the application on behalf of the eligible applicant, and the amount approved shall be public record.

C. Applications, the identity of applicants and their related military personnel or veterans, and all records of the board, the fund committee and the third party administrator related thereto, shall be available prior to any approval of the application, to necessary parties including but not limited to, the legislative auditor, the legislative oversight committee for rules and annual reports, and such other parties as necessary for prudent administration of the Military Family Assistance Program and verification of elements of the application.

D. The board, the fund committee, and the third party administrator are expressly authorized to make public data concerning the number of applications received, the amount

of claims approved, the geographic areas of the state from which such applications are received and approved, the number of disapproved applications, and the amount of funds in the Military Family Assistance Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1611 (June 2011), amended LR 45:1592 (November 2019).

Subchapter E. Veterans' Cemeteries

§990. Fee Waivers

A. The secretary of the department may waive all or part of the fee charged under R.S. 29:295 for burying spouses and dependent children in Louisiana veterans' cemeteries if unusual financial circumstances or hardships exist. Family members who believe they have unusual financial circumstances or hardships may request relief and consideration of a waiver of the burial fee for the deceased spouse or dependent child. Family members may apply for this consideration through the cemetery director. The application must include appropriate documentation to support a finding that an unusual financial circumstance or hardship exists. If the cemetery director determines that the application and supporting documentation reflect that an unusual financial circumstance or hardship exists, then the director will forward the request with an appropriate recommendation to the secretary for approval or disapproval to waive the fee in whole or in part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 45:1592 (November 2019).

Chapter 11. Elderly Affairs

Subchapter A. State Agency on Aging

§1101. Office of Elderly Affairs

A. Authority, Organization and Purpose

1. Chapter 7 of title 46 of the *Louisiana Revised Statutes* of 1950 (R.S. 46:931 et seq.) provides for the establishment and administration of the Office of Elderly Affairs (GOEA) within the Office of the Governor.

2. GOEA serves as the focal point for the development and administration of public policy regarding Louisiana's elderly citizens. GOEA is the sole state agency designated by the governor and the legislature to develop and administer the state plan on aging. GOEA also administers the Long Term Care Ombudsman Program.

B. Powers and Responsibilities

1. GOEA has the following powers and duties under state law:

a. to administer the Older Americans Act and related programs;

b. to collect facts and statistics and make special studies of conditions pertaining to the employment, health, financial status, recreation, social adjustment or other conditions affecting the welfare of the aged;

c. to keep abreast of the latest developments in aging throughout the nation and to interpret such findings to the public;

d. to provide for a mutual exchange of ideas and information on the national, state, and local levels;

e. to conduct hearings and to subpoena witnesses;

f. to make recommendations to the governor and to the legislature for needed improvements and additional resources to promote the welfare of the aging in the state;

g. to adopt and promulgate rules and regulations deemed necessary to implement the provisions of the law in accordance with the Administrative Procedure Act;

h. to exercise the functions of the state relative to nutrition programs for the elderly and handicapped citizens of Louisiana;

i. to operate the Office of the State Long Term Care Ombudsman;

j. to administer all federal funds appropriated, allocated, or otherwise made available to the state for services to the elderly, whether by block grant or in any other form, with the exception of funds for programs administered by the Department of Children and Family Services or the Department of Health, on August 15, 1995, and to distribute those funds in accordance with and consistent with R.S. 46:936;

k. to approve recommendations from any parish voluntary council on aging prior to the creation of a new state-funded senior center in the state; and

l. to provide meeting space and staff support for the Executive Board on Aging [R.S. 46:933(G)].

C. Functions of the Governor's Office of Elderly Affairs

1. Administrative Functions—

a. to develop and follow written policies in carrying out its functions under state and federal laws and regulations;

b. to develop and enforce policies governing all aspects of programs operating under the Older Americans Act, whether operated directly or under contract;

c. to manage and control funds received from federal and state sources.

2. Advocacy Functions—

a. to review, monitor, evaluate and comment on all federal, state and local plans, budgets, regulations, programs, laws, levies, hearings, policies, and actions which affect or may affect older individuals and recommend any changes in these which GOEA considers to be appropriate;