

## NOTICE OF INTENT

### Department of Civil Service Board of Ethics

#### Third Party Ethics Training (LAC 52:I.Chapter 24)

The Department of Civil Service, Board of Ethics, in accordance with R.S. 42:1134(A) and with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., has initiated rulemaking procedures to promulgate changes to the regulations for Third Party Ethics Training. The proposed changes allow certified ethics trainers to use virtual training and account for attendance by individuals taking such training.

### Title 52 Ethics

#### Part I. Board of Ethics

##### Chapter 24. Third-Party Ethics Training

###### §2401. In General

A. It is of primary importance to the public that each public servant in the state of Louisiana undergoes education and training on the Code of Governmental Ethics during each year of his term of public employment or term in office, as the case may be, in accordance with R.S. 42:1170. These rules establish the procedure to certify persons and programs to deliver education regarding the laws within the jurisdiction of the Board of Ethics (board) to public servants required to receive education regarding those laws. These rules do not apply to persons who are employed by the ethics administration program.

B. State agency ethics liaisons designated pursuant to R.S. 42:1170(C)(2) are certified trainers and not required to comply with §2405.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1209 (May 2012).

###### §2403. Definitions

A. For purposes of Chapter 24 of these Rules, the following definitions apply.

*Additional Material*—public servant ethics training material which has not yet been approved by the Board of Ethics for presentations. Such material requires board approval prior to being presented to public servants.

*Certified Trainer*—any person who is approved to educate and train the state's public servants on the Code of Governmental Ethics and who is not an employee of the Board of Ethics.

*Liaison*—the person designated by each agency head to provide all public servants of that agency information and instruction relative to ethics and conflicts of interest.

*Preapproved Training Material*—public servant ethics training materials that do not require approval from the Board of Ethics in order for the certified trainer to present the material to public servants.

*Proctor*—a person who does not teach a public servant ethics training program, but administers the training by recorded presentation, which may include, but is not limited to, a DVD or electronic presentation requiring computer software provided by the Board of Ethics.

*Program*—a specific session of public servant ethics training.

*Public Servant Ethics Training*—the mandatory one hour of ethics training that all public servants in the State of Louisiana are required to attend annually pursuant to R.S. 42:1170(A).

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1209 (May 2012).

###### §2405. Certification of Trainers

A. In order for an applicant to be an approved certified trainer, he must meet the following requirements.

1. Required Training. Certified trainer applicants are required to undergo a minimum of four hours of training within the past three years that can be verified with attendance records maintained by the ethics administration program prior to submitting an application seeking certified trainer status. Courses that may count toward an applicant's four hour training requirement include:

a. two hour training course(s) developed for liaisons pursuant to R.S. 42:1170(C);

b. public servant ethics training offered by an employee of the ethics administration program or any other trainer who has been previously certified to deliver public servant ethics training programs by the ethics administration program; or

c. public servant ethics training offered via the Board of Ethics website; however, no more than one hour will count toward an applicant's four hour training requirement.

2. Application Submission. All persons who seek approval as a certified trainer to deliver a public servant ethics training program must submit an application for trainer certification following the completion of the required training pursuant to Subsection A of this Section. The application can be found on the board's website.

3. Ongoing Training. A certified trainer who wishes to maintain certified status in subsequent years is required to undergo two hours of continuing education within 90 days of the beginning of each calendar year; this requirement can be met through attendance at any of the courses enumerated in Subsection A of this Section. A certified trainer who does not undergo his two hour continuing education training course to maintain his certified status will be required to attend four hours of training and submit an application for trainer

certification, which must be approved by the ethics administrator, or his designee, to renew his certified trainer status.

B. Certified trainer applicants must not have been found to have been in violation of any of the laws within The Code of Governmental Ethics, R.S. 42:1101 et seq., prior to submission of an application for trainer certification unless approval has been obtained by the board in accordance with Section 2405.B.3.

1. Subsection B does not include persons who have been subject to a per day late fee pursuant to the laws under the jurisdiction of the board, if said fee has been paid.

2. Subsection B does not apply to any persons who have been found in violation of any other laws under the board's supervision or jurisdiction including, but not limited to, the Campaign Finance Disclosure Act, R.S. 18:1481 et seq., or the Lobbyist Disclosure Acts, R.S. 24:50 et seq., R.S. 49:71 et seq., and R.S. 33:9661 et seq.

3. A person who has been found in violation of the Code of Governmental Ethics, as set forth in Subsection B, may seek approval from the board to become a certified trainer three years from the date the decision finding the violation is final.

C. Certified trainer applicants who are licensed to practice law may not be approved if currently representing a client in connection with an ongoing investigation, if representing a client in a matter in which charges have been filed by the board, or if an attorney of record in a civil lawsuit in which the board is named as an opposing party.

1. Subsection C shall not prohibit an attorney from becoming a certified trainer if he is representing a client in relation to an advisory opinion request before the board.

2. Subsection C shall only be read to apply to the individual attorney and shall not be read to be imputed upon an attorney's firm.

D. Only upon approval by the ethics administrator, or his designee, will an applicant become a certified trainer. The ethics administrator, or his designee, retains the right to refuse approval of applicants, or suspend or revoke the status of certified trainers as set forth in §2413.H, who do not comply with the requirements or standards of these rules. A person not approved as a certified trainer under this Section may appeal the decision of the ethics administrator, or his designee, to the board.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1209 (May 2012).

#### **§2407. Training and Education Materials**

A. Certified trainers are required to use training and education materials approved by the ethics administration program.

B. Access to preapproved training materials will be made available to trainers pending completion of training requirements set forth in §2405 and upon trainer certification.

C. Additional material may be used by certified trainers if the material has been approved by the ethics administrator, or his designee, pursuant to the standards and expectations set out in §2409.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1210 (May 2012).

#### **§2409. Standards and Expectations for Approval; Additional Material**

A. Application for Approval. Certified trainers who wish to utilize material that has not been preapproved by the board must submit an application for approval of material for public servant ethics training to the Board of Ethics with a copy of the materials for the proposed program.

B. Process. The ethics administration program will evaluate the application and material pursuant to the standards and expectations in Subsection C of this Section. An application for such program and materials must be submitted to the board at least 30 days in advance of the program.

C. Standards and Expectations. The following standards will govern the approval of materials by the board.

1. The materials for the program must have significant intellectual or practical content, and its primary objective must be to maintain or increase the public servant's awareness of the ethical standards set forth in the code of governmental ethics.

2. Materials submitted with the application shall include a copy of high quality and carefully prepared materials that shall be given to all public servants at the program. Materials submitted may include written material to be distributed to participants as well as videos, slideshows or other electronic media.

D. Additional Material. Materials that have been approved by the ethics administration program for use in a public servant ethics training program are valid for the remainder of the calendar year and are not required to undergo an approval process until the following year.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1210 (May 2012).

#### **§2411. Notification of Ethics Training Program**

A. Prior to conducting a public servant ethics training program, a certified trainer must notify the ethics administration program and request approval of the session. An application for public servant ethics training program can be found on the board's website and shall be submitted to the ethics administration program electronically for approval.

B. Preapproved Training Material. A certified trainer must submit an Application for public servant ethics training

program to the Board of Ethics at least 5 days prior to the program if the material to be used in the presentation is preapproved training material.

C. Additional Material. A certified trainer must submit an application for public servant ethics training program in conjunction with an application for approval of material for public servant ethics training pursuant to §2409 at least 30 days prior to the program if the material to be used in the presentation is not preapproved training material. An application for approval of material for public servant ethics training need not be submitted if the material to be used has already been approved pursuant to §2409.D for the calendar year.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1210 (May 2012).

### **§2413. Ethics Training Program Requirements**

A. Programs must be a minimum of one hour in order for the public servant to receive credit for his public servant ethics training, and the public servant must be present for at least 90% of the presentation.

B. The program must be offered by a certified trainer.

C. The costs of the program, if any, to the attending public servant must be reasonable considering the subject matter, level of instruction, supporting documentation, and educational material.

D. No examination or testing shall be required at any public servant ethics training program, unless for the sole purpose of attendance verification.

E. The program must be

1. conducted in a physical setting conducive to learning at a time and place free of interruptions.

2. conducted in a virtual environment using software that allows the certified trainer to obtain login information for the user.

F. The certified trainer of an approved public servant ethics training program must announce or indicate as follows:

1. This course has been approved by the Louisiana Board of Ethics to meet the ethics training requirement pursuant to R.S. 42:1170. The person delivering this program is not employed by the Board of Ethics, and any advice given is informational in nature. No opinions given are those of the Board of Ethics. If you have any questions regarding this program or the Code of Governmental Ethics, do not hesitate to contact the board with your inquiry.

G. At the conclusion of an approved program, each attending public servant must be given the opportunity to complete an evaluation questionnaire addressing the quality, effectiveness, and usefulness of the particular program. Within 30 days of the conclusion of the program, a summary of the results of the questionnaires must be forwarded to the board. If requested, copies of the questionnaires must also be

forwarded to the board. Certified trainers must maintain the questionnaires for one year following a program,.

H. To ensure all requirements are met in accordance with this Chapter, the board or its staff may at any time evaluate a program and suspend approval of it. The board and its staff may also at any time evaluate a trainer and suspend or revoke his status as a certified trainer. The certified trainer will be given written reasons for suspension or revocation and an opportunity to appear before the board at its next regularly scheduled monthly meeting.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1210 (May 2012).

### **§2415. Public Servant Attendance Information and Submission; Certified Trainers**

A. Each public servant attending a certified program shall provide information requested by the trainer.

B. For in person trainings, attendance forms will be provided by the certified trainer, which shall include an area for the attendee's name, date of birth, agency, signature, course number, certified trainer name, time of beginning of attendance and time of end of attendance. The attendance form must be completed and turned into the trainer at completion of the training. .

C. For trainings conducted in a virtual environment, the following information for the attendee must be captured by the software used by the trainer: name, date of birth, agency, course number, name of certified trainer, time of log on, and time of log off.

D. The certified trainer must maintain attendance documentation for a minimum of four years; in the event a request is ever made by the board to view the forms by the board for the purposes of an audit, hearing, investigation, or any other purposes the board deems necessary and proper.

E. The certified trainer shall submit a certification of attendance to the board of Ethics within 30 days after the date of the program. The submission shall be made electronically on the board's website, and shall include the course number, certified trainer's name, the date of the program, and a list of only those attendees who attended 90% of the training, along with the attendee's date of birth and agency.

F. Attendance forms, or any other certification of attendance, will not be accepted by the Board of Ethics from an individual public servant.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1211 (May 2012).

### **§2417. Ethics Liaisons; Proctors**

A. A state agency ethics liaison may deliver information, as a proctor, to the public servants in his agency regarding the education and training required pursuant to R.S. 42:1170.A of the code of governmental ethics, provided the liaison has the training required by R.S. 42:1170.C.

B. A political subdivision ethics liaison may deliver information, as a proctor, to the public servants under his agency's supervision or jurisdiction regarding the education and training required pursuant to R.S. 42:1170.A of the code of governmental ethics, provided the liaison has been designated by his agency head and the liaison has attended a minimum of two hours of education and training designed for such persons or for persons set out in R.S. 42:1170.C regarding the provisions of the code of governmental ethics. In addition, each liaison shall be required to have at least two hours of ethics education and training annually.

1. A *political subdivision*, for purposes of this Section, is defined by R.S. 42:1102(17) as any unit of local government, including a special district, authorized by law to perform governmental functions.

C. If a request is made to the Board of Ethics, the board will provide the proctor, as defined in Subsections A and B access to a recorded presentation regarding the Code of Governmental Ethics, which may include, but is not limited to, a DVD or other presentation through the use of computer software.

D. In order for the public servant to receive credit for his public servant ethics training, the recorded presentation must be a minimum of one hour, and the public servant must be present for the entirety of the presentation.

E. Proctors for a public servant ethics training program shall announce or indicate as follows, prior to beginning the presentation.

1. This course has been approved by the Louisiana Board of Ethics to meet the ethics training requirement pursuant to R.S. 42:1170. The person delivering this program is not employed by the Board of Ethics, and any advice given is informational in nature. No opinions given are those of the Board of Ethics. If you have any questions regarding this program or the Code of Governmental Ethics, do not hesitate to contact the board with your inquiry.

F. Proctors must adhere to the following when submitting information to the Ethics Administration Program regarding the public servants in their agency.

1. Each public servant shall complete a public servant ethics training attendance form while in attendance at a recorded presentation by the proctor.

2. Attendance forms will be provided by the proctor.

3. Attendance forms shall include an area for the attendees' name, date of birth, agency, signature, course number, and proctor name and shall also include a clause that states:

Your signature on this attendance form is your attestation that you attended the entire presentation and that you are the person whose identity this form declares. You understand that evidence brought to the attention of the Board of Ethics to the contrary may result in disciplinary action from the board for failure to comply with R.S. 42:1170.

4. The public servant must complete a form while in attendance and leave the form with the proctor to be filed and

stored by the political subdivision for a minimum of four years; in the event a request is ever made by the board to view the forms by the board for the purposes of an audit, hearing, investigation, or any other purposes the board deems necessary and proper.

5. The proctor shall submit information regarding the attendees to the Board of Ethics within 30 days after the date of the program. The submission shall be made electronically on the board's website, and shall include the course number, proctor's name, the date of the program, and a list of the attendees with each public servant's date of birth and agency.

6. Attendance forms, or any other certification of attendance, will not be accepted by the Board of Ethics from an individual public servant.

G. Proctors are required to be present for the entirety of the program. If the proctor is not in the room with the attendees, the class size shall be limited to less than 10 attendees. Also, the proctor must be able to visually see the attendees and monitor their attendance.

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

HISTORICAL NOTE: Promulgated by the Department of Civil Service, Board of Ethics, LR 38:1211 (May 2012).

#### **Family Impact Statement**

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

#### **Poverty Impact Statement**

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

#### **Provider Impact Statement**

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

#### **Small Business Statement**

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

#### **Public Comments**

Interested persons may direct their comments to Kathleen M. Allen, Louisiana Board of Ethics, P.O. Box 4368, Baton Rouge, LA 70821, telephone (225) 219-5600, until 4:45 p.m. on April 10, 2021.

Kathleen M. Allen  
Ethics Administrator

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: **Third Party Ethics Training****

#### **I. ESTIMATED IMPLEMENTATION COSTS**

(SAVINGS) TO STATE OR LOCAL GOVERNMENTAL  
UNITS (Summary)

The proposed rule allows certified ethics trainers to use virtual training and account for attendance by individuals taking such training. The estimated cost to implement the proposed rule change is \$320 in FY 20-21, which includes the cost to publish the Notice of Intent and the proposed rule in the State Register.

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

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

III. ESTIMATED COSTS AND/OR ECONOMIC  
BENEFITS TO DIRECTLY AFFECTED PERSONS,  
SMALL BUSINESSES, OR NON-GOVERNMENTAL  
GROUPS (Summary)

The proposed action may impact certain directly affected persons. The proposed rule changes allow certified ethics trainers to use virtual training. The estimated costs and/or economic benefits is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND  
EMPLOYMENT (Summary)

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

Kristy Gary  
Deputy Ethics Administrator

Alan M. Boxberger  
Legislative Fiscal Officer

