

NOTICE OF INTENT

**Student Financial Assistance Commission
Office of Student Financial Assistance
Scholarship/Grant Programs
Definition of Eligible Non-citizen, Clarification of Stipend Payments, and
Implements Acts 18, (SB 329), and (SB 470) of the 2016 Regular Session of the Louisiana Legislature
(LAC 28:IV.301, 701, 703, and 2107)**

The Louisiana Student Financial Assistance Commission (LASFAC) announces its intention to amend its Scholarship/Grant rules (LSA-R.S. 17:3021-3025, LSA-R.S. 3041.10-3041.15, LSA-R.S. 17:3042.1, LSA-R.S. 17:3048.1, LSA-R.S. 17:3048.5 and LSA-R.S. 17:3048.6).

This rulemaking clarifies the definition of eligible non-citizen, clarifies that Performance and Honors Award stipends are paid for each semester for which tuition is paid by TOPS and for which the student remains eligible for the Award, and implements Acts 18, Act 388, and (SB 470) of the 2016 Regular Session of the Louisiana Legislature. (SG16172NI)

Title 28 EDUCATION

Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

Chapter 3. Definitions

§301. Definitions

A. Words and terms not otherwise defined in this Chapter shall have the meanings ascribed to such words and terms in this Section. Where the masculine is used in these rules, it includes the feminine, and vice versa; where the singular is used, it includes the plural, and vice versa.

* * *

Award Amount—

1. Through the 2015-2016 academic year (college), an amount equal to tuition at the school attended, for those students attending a Louisiana public college or university, as determined by the commission, which may be used by the student to pay any educational expense included in that student's "cost of attendance." The amount paid for TOPS and TOPS-Tech Awards shall be as follows.

a. For students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in an academic degree program, the amount shall equal the actual cost of tuition.

b. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or an out-of-state college or university if all of the conditions of §703.I are met and enrolled

in an academic degree program, the amount shall equal the weighted average award amount.

c. For students with the TOPS Opportunity, Performance, and Honors Award attending a Louisiana public college or university and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition.

d. For students with the TOPS Opportunity, Performance, and Honors Award attending a regionally accredited independent college or university in Louisiana that is a member of the Louisiana Association of Independent Colleges and Universities or who attend an eligible cosmetology or proprietary school and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the average award amount (TOPS-Tech).

e. For students with the TOPS-Tech Award attending an eligible public college or university that does not offer an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education certificate or diploma or a non-academic undergraduate degree, the amount shall equal the actual cost of tuition.

f. For students with a TOPS-Tech Award attending an eligible college or university that offers an academic undergraduate degree at the baccalaureate level or higher and enrolled in a program for a vocational or technical education

certificate or diploma or a non-academic undergraduate degree, the amount shall equal the average award amount (TOPS-Tech).

g. For students with the TOPS Opportunity, Performance, and Honors Award enrolled in a Louisiana professional school, the amount shall be equal to the tuition charged or the tuition charged a student pursuing a baccalaureate degree at the highest cost public school, whichever is less or the weighted average award amount, depending upon whether the Louisiana professional school is a public or private school.

h. For students with the TOPS Opportunity, Performance and Honors Award enrolled in a Louisiana Graduate Degree Program, the amount shall be equal to the tuition or the tuition charged for a student while pursuing a baccalaureate degree at the highest cost public school in the state, whichever is less.

2. Beginning with the 2016-2017 academic year (college), the award amount determined by the administering agency in accordance with Section 1.a-h., above during the 2016-2017 academic year (college), plus any increase in the award amount specifically authorized by the Louisiana Legislature.

* * *

Eligible Noncitizen—

a. ~~for students graduating in the 2017-2018 academic year (high school) and prior,~~ an individual who can provide documentation from the U. S. Citizenship and Immigration Services (USCIS) or its successor that he is in the U.S. for other than a temporary purpose with the intention of becoming a citizen or permanent resident, including, but not limited to, refugees, persons granted asylum, Cuban-Haitian entrants, temporary residents under the recent Immigration Reform and Control Act of 1986, and others. A permanent resident of the United States must provide documentation from the USCIS to verify permanent residency. For 1997, 1998 and 1999 high school graduates, an eligible noncitizen shall be treated as meeting the citizenship requirements for an award under this Part.

b. ~~for students graduating in beginning with~~ the 2018-2019 academic year (high school) and later, a student who is not a citizen of the United States but who is the child of a non-United States citizen who is either serving in any branch of the United States armed forces or has been honorably discharged from any branch of the United States armed forces shall be treated as meeting the citizenship requirements for an award under this Part.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:632 (April 1998), amended LR 24:1898 (October 1998), LR 24:2237 (December 1998), LR 25:256 (February 1999), LR 25:654 (April 1999), LR 25:1458 and 1460 (August 1999), LR 25:1794 (October 1999), LR 26:65

(January 2000), LR 26:688 (April 2000), LR 26:1262 (June 2000), LR 26:1601 (August 2000), LR 26:1993, 1999 (September 2000), LR 26:2268 (October 2000), LR 26:2752 (December 2000), LR 27:36 (January 2001), LR 27:284 (March 2001), LR 27:1219 (August 2001), LR 27:1840 (November 2001), LR 27:1875 (November 2001), LR 28:45 (January 2002), LR 28:446 (March 2002), LR 28:772 (April 2002), LR 28:2330, 2331 (November 2002), LR 29:555 (April 2003), LR 29:879 (June 2003), LR 30:1159 (June 2004), LR 30:2015 (September 2004), LR 31:36 (January 2005), LR 31:3112 (December 2005), LR 33:86 (January 2007), LR 33:439 (March 2007), LR 33:1339 (July 2007), LR 33:2612 (December 2007), LR 34:234 (February 2008), LR 34:1388 (July 2008), LR 34:1884 (September 2008), LR 35:228 (February 2009), LR 35:1489 (August 2009), LR 35:1490 (August 2009), LR 36:311 (February 2010), LR 36:490 (March 2010), LR 36:2854 (December 2010), LR 37:1561 (June 2011), LR 37:1562 (June 2011), LR 38:1953 (August 2012), LR 38:3156 (December 2012), LR 39:308 (February 2013), LR 40:53 (January 2014), LR 40:281 (February 2014), LR 41:649, 658 (April 2015), LR 41:2595 (December 2015).

Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards

§701. General Provisions

A. – E.1.b. ...

2.a. The TOPS Performance Award provides a \$400 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C, or 701.E.2.b. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that ~~The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit, the stipend will also be paid since for which tuition is paid. Attending a qualified summer session for which tuition is paid~~ payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

3.a. The TOPS Honors Award provides an \$800 annual stipend, prorated by two semesters, three quarters, or equivalent units in each academic year (TOPS), in addition to an amount equal to tuition for full-time attendance at an

eligible college or university, for a period not to exceed eight semesters, including qualified summer sessions, 12 quarters, including qualified summer sessions, or an equivalent number of units in an eligible institution which operates on a schedule based on units other than semesters or quarters, except as provided by R.S. 17:3048.1(H), or LAC 28:IV.503.D, 509.C or 701.E.3.b. If a student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit, the stipend will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.~~The stipend will be paid for each qualified summer session, semester, quarter, term, or equivalent unit for which tuition is paid. Attending a qualified summer session for which tuition is paid will count toward the eight semester limit for TOPS.~~

b. The semester or term count for a student shall not be increased for any semester or term a student is unable to complete because of orders to active duty in the United States Armed Forces or National Guard, whether or not a full refund for the TOPS payment for that semester or term is received by LOSFA, provided that any amount of a stipend paid and not refunded shall be counted toward the total stipends allowed by law.

4.a. Through the 2009-2010 Academic Year (college), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus any applicable TOPS stipend and a sum of not more than \$150 per semester or \$300 annually for the actual cost of books and other instructional materials.

b. Beginning with the 2010-2011 academic year (College), in lieu of the amount equal to tuition as provided by LAC 28:IV.701.E.1-3, students with the TOPS Opportunity, Performance and Honors Award participating in the program provided by R.S. 29:36.1 for persons serving in the Louisiana National Guard shall receive the tuition exemption as provided therein, plus a sum of \$300 per semester or \$600 per academic year to be applied toward the cost of books and other instructional materials. In addition, those students with the Performance Award shall receive \$400 per semester or \$800 per academic year for other educational expenses and those students with the Honors Award shall receive \$800 per semester or \$1,600 per academic year for other educational expenses. If the student attends an eligible summer session, quarter, term, or equivalent unit and requests that their TOPS Award be paid for that session, semester, quarter, term, or equivalent unit in accordance with this paragraph, the amounts stipulated herein will also be paid since payment of a TOPS Award for a summer session, quarter, term, or equivalent unit will count toward the eight semester limit for TOPS.

E.5. – G.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1645-1648 (December 1997), repromulgated LR 24:635 (April 1998), amended LR 24:1901 (October 1998), LR 25: 256 (February 1999), LR 26:67 (January 2000), LR 26:1262 (June 2000), LR 26:1995 (September 2000), LR 26:2000 (September 2000), repromulgated LR 27:1848 (November 2001), amended LR 28:447 (March 2002), LR 28:2331 (November 2002), LR 29:880 (June 2003), LR 29:2372 (November 2003), LR 30:1161 (June 2004), LR 31:2213 (September 2005), LR 35:228 (February 2009), LR 36:2854 (December 2010), LR 40:1002 (May 2014), LR 41:663 (April 2015).

§703. Establishing Eligibility

A.1. – A.5.g.viii. ...

6. have achieved an ACT score, as defined in §301 of at least:

a. if qualifying under the terms of §703.A.5.a, b, or g:

i. the state's reported prior year ACT composite average, ~~rounded~~truncated to a whole number, but never less than 20 for the Opportunity Award; or

ii. a 23 for the Performance Award; or

iii. a 27 for the Honors Award; or

b. if qualifying under §703.A.5.c:

i. is a Louisiana resident, except as defined in Subparagraph h of the definition of *Louisiana Resident* in §301:

(a) the state's reported prior year average, ~~rounded~~truncated to a whole number plus 3 points, ~~rounded~~, but never less than 23 for the Opportunity Award; or

(b) a 26 for the Performance Award; or

(c) a 30 for the Honors Award; and

ii. is a Louisiana resident as defined in Subparagraph h of the definition of *Louisiana Resident* in §301:

(a) the state's reported prior year average, ~~rounded~~truncated to a whole number, plus 2 points, ~~rounded~~, but never less than 22 for the Opportunity Award; or

(b) a 25 for the Performance Award; or

(c) a 29 for the Honors Award; and

c.i. if completed the 12th grade level of an approved home study program during or before the academic year (high school) 2003-2004 and qualifying under §703.A.5.d;

(a) the state's reported prior year average, ~~rounded~~truncated to a whole number, plus 3 points, ~~rounded~~, but never less than 23 for the Opportunity Award; or

(b) a 26 for the Performance Award; or

(c) a 30 for the Honors Award; and

ii. if completed the 12th grade level of an approved home study program during or after academic year (high

school) 2004-2005 and through academic year (high school) 2006-2007 and qualifying under §703.A.5.d;

(a) the state's reported prior year average, truncated to a whole number plus 2 points, ~~rounded~~, but never less than 22 for the Opportunity Award; or

(b) a 25 for the Performance Award; or

(c) a 29 for the Honors Award; and

iii. if completed the 12th grade level of an approved home study program during or after the academic year (high school) 2007-2008 and after, and qualifying under §703.A.5.d;

(a) the state's reported prior year average, truncated to a whole number, plus 2 points, ~~rounded~~, but never less than 22 for the Opportunity Award; or

(b) a 24 for the Performance Award; or

(c) a 28 for the Honors Award; and

d.i. if qualifying under §703.A.5.e by graduating from a high school defined in §1701.A.5; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 3 points, ~~rounded~~, but never less than 23;

ii. if qualifying under §703.A.5.e by successfully completing the 12th grade level a home study program approved by BESE and conducted outside the United States and its territories during or before the academic year (high school) 2003-2004 or during or after the academic year (high school) 2008-2009; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 3 points, ~~rounded~~, but never less than 23;

iii. if qualifying under §703.A.5.e by successfully completing the 12th grade level a home study program approved by BESE and conducted outside the United States and its territories during or after the academic year (high school) 2004-2005 and through the academic year (high school) 2007-2008; which is limited to the Opportunity Award only; the state's reported prior year average, truncated to a whole number, plus 2 points, ~~rounded~~, but never less than 22;

e. if qualifying under §703.A.5.f; which is limited to the Performance Award only; a 24; and

7. not have a criminal conviction, except for misdemeanor traffic violations, and if the student has been in the United States Armed Forces and has separated from such service, has received an honorable discharge or general discharge under honorable conditions; and

8. agree that awards will be used exclusively for educational expenses;

B. Students qualifying:

1. under §703.A.5.a and b during or before academic year (high school) 2006-2007, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.50 for the Performance or Honors Awards;

2. under §703.A.5.a and b during or after academic year (high school) 2007-2008, must have attained a cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.00 for the Performance or Honors Awards;

3. under §703.A.5.a and b in academic year (high school) 2020-2021 must have attained a TOPS cumulative high school grade point average, based on a 4.00 maximum scale, of at least:

a. a 2.50 for the Opportunity Award; or

b. a 3.25 for the Performance; or

c. a 3.50 for the Honors Award.

34. under §703.A.5.f and graduating in academic year (high school) 2000-2001 through 2005-2006, must have attained a TOPS cumulative high school grade point average, based on a 4.00 maximum scale, of at least a 3.00 for the Performance Award.

C. – J.4.b.ii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:3042.1, and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), repromulgated LR 24:636 (April 1998), amended LR 24:1902 (October 1998), LR 24:2237 (December 1998), LR 25:257 (February 1999), LR 25:655 (April 1999), LR 25:1794 (October 1999), LR 26:64, 67 (January 2000), LR 26:689 (April 2000), LR 26:1262 (June 2000), LR 26:1602 (August 2000), LR 26:1996, 1999, 2001 (September 2000), LR 26:2268 (October 2000), LR 26:2753 (December 2000), LR 27:36 (January 2001), LR 27:702 (May 2001), LR 27:1219, 1219 (August 2001), repromulgated LR 27:1850 (November 2001), amended LR 28:772 (April 2002), LR 28:2330, 2332 (November 2002), LR 29:125 (February 2003), LR 29:2372 (November 2003), LR 30:1162 (June 2004), LR 30:1471 (July 2004), LR 30:2019 (September 2004), LR 31:37 (January 2005), LR 31:2213 (September 2005), LR 31:3112 (December 2005), LR 32:2239 (December 2006), LR 33:435 (March 2007), LR 33:2357 (November 2007), LR 33:2612 (December 2007), LR 34:1389 (July 2008), LR 35:228 (February 2009), LR 36:312 (February 2010), LR 36:490 (March 2010), LR 36:2269 (October 2010), LR 36:2855 (December 2010), LR 37:2987 (October 2011), LR 38:354 (February 2012), LR 38:3158 (December 2012), LR 39:481 (March 2013), LR 39:2485 (September 2013), LR 40:54 (January 2014), LR 41:373 (February 2015), LR 41:651, 664 (April 2015), LR 41:1486 (August 2015), LR 41:2596, 2599 (December 2015).

Chapter 21. Miscellaneous Provisions and Exceptions

§2107. Funds and Funding

A. – B. ...

C. Insufficient Funds Appropriated

1. All LASFAC administered State Scholarship and Grant Program Awards are contingent upon the annual appropriation of funds by the Louisiana Legislature.

2. In the event appropriated funds are insufficient to fully reimburse institutions for awards and stipends for all students determined eligible for the TOPS opportunity, performance, honors and TECH Awards for a given academic year, each student's award, including stipends for TOPS performance and honors awards, shall be reduced by an equal percentage on a pro rata basis.

3. A student whose award is reduced pursuant to this section shall not be required to accept payment of his award or enroll or maintain continuous enrollment in an eligible college or university during the time period during which there is a funding shortfall. A student who exercises this option:

a. Shall be eligible to receive his remaining TOPS award upon enrollment in an eligible college or university, provided the student meets the continuation requirements for his award except as specifically set forth in this section; and

b. Shall exhaust all award eligibility within five years of the reduction of his award, provided that if the student requests and is granted an exception to the requirement to enroll full time or to maintain continuous enrollment in school in accordance with §1901 of these rules, the time period within which the student must exhaust his award eligibility shall be extended by the number of semesters/terms for which he receives an exception, then the number of eligible students shall be reduced in accordance with the following procedures until such funds are sufficient.

4. The provisions of this Sections shall not apply to the stipend for books and other instructional materials provided to persons serving in the Louisiana National Guard as set forth in §701.E.4.a and b of these rules or to the TOPS Tech Early Start Program.

~~a.—Applicants who do not submit financial data on the initial FAFSA or a renewal FAFSA or who do not submit a renewal FAFSA to allow determination of eligibility for federal aid will be the first students eliminated from consideration if insufficient funds are appropriated for the program.~~

~~b.—After the elimination of students under, §2107.C.2.a if funds are still insufficient to award all of those students who remain eligible for award year 1998-99, then those students qualified by the actions of the First Extraordinary Session of 1998 shall be funded only after all awards to all students who are eligible pursuant to the requirements of this Chapter as they existed prior to any Act of the 1998 First Extraordinary Session of the Legislature are fully funded. Students qualified by actions of the First Extraordinary Session of 1998 include the following:~~

~~i.—students qualified by reduction of foreign language requirement for 1996-97 and 1997-98 graduates;~~

~~ii.—students qualified as exceptional students/students with disabilities;~~

~~—iii. students who graduated from out of state high schools; and,~~

~~—iv. students who completed an Approved home study program.~~

~~e.—After the elimination of students in §2107.C.2.a, and b, if funds are still insufficient to award all of the remaining students, then those who remain will be prioritized according to their ACT score and, within ACT score, by their EFC in ranges of \$1,000, from lowest to highest. Beginning with the lowest qualifying ACT score, the students with the highest EFC shall be eliminated until the funds available are sufficient to award all remaining students or until all students with that ACT score have been eliminated. This process shall be repeated, beginning with the lowest ACT score and progressing to the highest ACT score, until the projected expenditure for awards equals the funds appropriated for that purpose.~~

~~d.—After the elimination of students in §2107.C.2.a, if funds are sufficient to award all students who were eligible prior to the Act of the 1998 First Extraordinary Session of the Legislature, but are insufficient to award all students made eligible under such Act and listed in §2107.C.2.b, then those students made eligible by such Act shall be rendered ineligible by application of §2107.C.2.e, above, until funds available are sufficient to award all remaining students.~~

~~3. From among those students otherwise eligible who are denied an award because of the imposition of the procedures in §2107.C.2, if additional funds subsequently become available for expenditure in the same award year, those students who have the highest ACT scores and the least capacity to pay, as evidenced by their families' lower EFC, shall be the first to be awarded by reversing the procedure described in §2107.C.2.e.~~

D. Stop Payment of Uncleared Checks. The LASFAC may stop payment on checks which are issued as scholarship or grant awards but not negotiated by September 1 following the close of the academic year for which they were issued.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3036, R.S. 17:3042.1 and R.S. 17:3048.1.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:649 (April 1998), amended LR 24:1919 (October 1998), LR 26:1998 (September 2000), repromulgated LR 27:1869 (November 2001), amended LR 28:449 (March 2002), LR 28:777 (April 2002), LR 28:2333 (November 2002), LR 31:40 (January 2005), LR 38:3162 (December 2012).

Family Impact Statement: The proposed rule has no known impact on family formation, stability, or autonomy, as described in LSA-R.S. 49:972.

Poverty Impact Statement: The proposed rulemaking will have no impact on poverty as described in LSA-R.S. 49:973.

Business Impact Statement: The proposed rule will have no adverse impact on small businesses as described in LSA-R.S. 49:965.2 *et seq.*

Provider Impact Statement: The proposed rule will have no adverse impact on providers of services for individuals with developmental disabilities as described in HCR 170 of 2014.

Interested persons may submit written comments on the proposed changes (SG16172NI) until 4:30 p.m., August 9, 2016, by email to LOSFA.Comments@la.gov or to Sujuan Williams Boutté, Ed. D., Executive Director, Office of Student Financial Assistance, P. O. Box 91202, Baton Rouge, LA 70821-9202.

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