

SOUTH CAROLINA STATE REGISTER DISCLAIMER

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SOUTH CAROLINA STATE REGISTER

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THE LEGISLATIVE COUNCIL
of the
GENERAL ASSEMBLY

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This issue contains notices, proposed regulations, emergency regulations, final form regulations, and other documents filed in the Office of the Legislative Council, pursuant to Article 1, Chapter 23, Title 1, Code of Laws of South Carolina, 1976.

SOUTH CAROLINA STATE REGISTER

An official state publication, the *South Carolina State Register* is a temporary update to South Carolina's official compilation of agency regulations--the *South Carolina Code of Regulations*. Changes in regulations, whether by adoption, amendment, repeal or emergency action must be published in the *State Register* pursuant to the provisions of the Administrative Procedures Act. The *State Register* also publishes the Governor's Executive Orders, notices or public hearings and meetings, and other documents issued by state agencies considered to be in the public interest. All documents published in the *State Register* are drafted by state agencies and are published as submitted. Publication of any material in the *State Register* is the official notice of such information.

STYLE AND FORMAT

Documents are arranged within each issue of the *State Register* according to the type of document filed:

Notices are documents considered by the agency to have general public interest.

Notices of Drafting Regulations give interested persons the opportunity to comment during the initial drafting period before regulations are submitted as proposed.

Proposed Regulations are those regulations pending permanent adoption by an agency.

Pending Regulations Submitted to the General Assembly are regulations adopted by the agency pending approval by the General Assembly.

Final Regulations have been permanently adopted by the agency and approved by the General Assembly.

Emergency Regulations have been adopted on an emergency basis by the agency.

Executive Orders are actions issued and taken by the Governor.

2011 PUBLICATION SCHEDULE

Documents will be accepted for filing on any normal business day from 8:30 A.M. until 5:00 P.M. All documents must be submitted in the format prescribed in the *Standards Manual for Drafting and Filing Regulations*.

To be included for publication in the next issue of the *State Register*, documents will be accepted no later than 5:00 P.M. on any closing date. The modification or withdrawal of documents filed for publication must be made **by 5:00 P.M.** on the closing date for that issue.

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Submission Deadline	1/14	2/11	3/11	4/8	5/13	6/10	7/8	8/12	9/9	10/14	11/11	12/9
Publishing Date	1/28	2/25	3/25	4/22	5/27	6/24	7/22	8/26	9/23	10/28	11/25	12/23

REPRODUCING OFFICIAL DOCUMENTS

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PUBLIC INSPECTION OF DOCUMENTS

Documents filed with the Office of the State Register are available for public inspection during normal office hours, 8:30 A.M. to 5:00 P.M., Monday through Friday. The Office of the State Register is in the Legislative Council, Fourth Floor, Rembert C. Dennis Building, 1000 Assembly Street, in Columbia. Telephone inquiries concerning material in the *State Register* or the *South Carolina Code of Regulations* may be made by calling (803) 212-4500.

ADOPTION, AMENDMENT AND REPEAL OF REGULATIONS

To adopt, amend or repeal a regulation, an agency must publish in the *State Register* a Notice of Drafting; a Notice of the Proposed Regulation that contains an estimate of the proposed action's economic impact; and, a notice that gives the public an opportunity to comment on the proposal. If requested by twenty-five persons, a public hearing must be held at least thirty days after the date of publication of the notice in the *State Register*.

After the date of hearing, the regulation must be submitted to the General Assembly for approval. The General Assembly has one hundred twenty days to consider the regulation. If no legislation is introduced to disapprove or enacted to approve before the expiration of the one-hundred-twenty-day review period, the regulation is approved on the one hundred twentieth day and is effective upon publication in the *State Register*.

EMERGENCY REGULATIONS

An emergency regulation may be promulgated by an agency if the agency finds imminent peril to public health, safety or welfare. Emergency regulations are effective upon filing for a ninety-day period. If the original filing began and expired during the legislative interim, the regulation can be renewed once.

REGULATIONS PROMULGATED TO COMPLY WITH FEDERAL LAW

Regulations promulgated to comply with federal law are exempt from General Assembly review. Following the notice of proposed regulation and hearing, regulations are submitted to the *State Register* and are effective upon publication.

EFFECTIVE DATE OF REGULATIONS

Final Regulations take effect on the date of publication in the *State Register* unless otherwise noted within the text of the regulation.

Emergency Regulations take effect upon filing with the Legislative Council and remain effective for ninety days. If the original ninety-day period begins and expires during legislative interim, the regulation may be refiled for one additional ninety-day period.

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TABLE OF CONTENTS

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

Status and Legislative Review Expiration Dates	1
Committee List of Regulations Submitted to General Assembly	2

EXECUTIVE ORDERS

Executive Order No. 2011-11	Declaring Emergency for Bridge Collapse in Cherokee.....	3
Executive Order No. 2011-12	Appoint McCormick County Clerk of Court	3
Executive Order No. 2011-13	Declaring Extra Session.....	4

NOTICES

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF		
Certification of Need.....		5
Underground Storage Tanks		7

DRAFTING NOTICES

HEALTH AND ENVIRONMENTAL CONTROL, DEPARTMENT OF		
Hazardous Waste Management Regulations.....		9

PROPOSED REGULATIONS

EDUCATION, STATE BOARD OF		
Document No. 4190	Criteria for Entry into Programs of Special Education for Students with Disabilities	10
PUBLIC SERVICE COMMISSION		
Document No. 4189	Financing Applications.....	12
WORKERS' COMPENSATION COMMISSION		
Document No. 4188	Maximum Allowable Payments to Medical Practitioners	14

FINAL REGULATIONS

EDUCATION, STATE BOARD OF		
Document No. 4172	Contracting Out School Food Service Operations.....	17
Document No. 4156	Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	19
Document No. 4157	Requirements for Additional Areas of Certification.....	22
Document No. 4158	Requirements for Certification at the Advanced Level	42

TABLE OF CONTENTS

EMPLOYMENT AND WORKFORCE, DEPARTMENT OF

Document No. 4169	Unemployment Insurance Reform (Updates to Article 1).....	46
Document No. 4170	Unemployment Insurance Reform (Updates to Article 2).....	48
Document No. 4171	Unemployment Insurance Reform (Updates to Article 3).....	57

HIGHER EDUCATION, COMMISSION ON

Document No. 4145	HOPE Scholarship	62
Document No. 4146	LIFE Scholarship & LIFE Scholarship Enhancement	72
Document No. 4147	Lottery Tuition Assistance Program for Two-Year Public and Independent Institution	100
Document No. 4148	Need-based Grants Program	108
Document No. 4149	Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement.....	118

PROBATION, PAROLE AND PARDON SERVICES, DEPARTMENT OF

Document No. 4159	Sentencing Reform	140
-------------------	-------------------------	-----

PUBLIC SERVICE COMMISSION

Document No. 4137	Customer Deposits and Deposit Retentions.....	143
Document No. 4138	Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms	145

REGULATIONS SUBMITTED TO GENERAL ASSEMBLY 1

In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.htm>

DOC. NO.	RAT. NO.	FINAL ISSUE	SUBJECT	EXP. DATE	AGENCY
4126		SR35-5	South Carolina Pesticide Control (R.27-1070, R.27-1077, and R.27-1078 only)	5/11/11	Clemson University-State Crop Pest Comm.
4130		SR35-5	Air Pollution Control Regulations and Standards: Standards of Performance for Asbestos Projects	5/11/11	Department of Health and Envir Control
4153		SR35-5	SC Safe Home Program Wind Inspectors and Contractors	5/11/11	Department of Insurance
4141		SR35-5	Seasons, Limits, Methods of Take and Special Use Restrictions on WMA's; Turkey Hunting Rules and Seasons	5/12/11	Department of Natural Resources
4135		SR35-5	Rehabilitation of Designated Historic Buildings	5/12/11	Department of Archives and History
4138		SR35-6	Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms	5/24/11	Public Service Commission
4156		SR35-6	Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	5/24/11	State Board of Education
4158		SR35-6	Requirements for Certification at the Advanced Level	5/24/11	State Board of Education
4145		SR35-6	South Carolina HOPE Scholarship	5/24/11	Commission on Higher Education
4146		SR35-6	LIFE Scholarship & LIFE Scholarship Enhancement	5/24/11	Commission on Higher Education
4147		SR35-6	Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions	5/24/11	Commission on Higher Education
4148		SR35-6	South Carolina Need-based Grants Program	5/24/11	Commission on Higher Education
4149		SR35-6	Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement	5/24/11	Commission on Higher Education
4137		SR35-6	Customer Deposits and Deposit Retention	5/24/11	Public Service Commission
4159		SR35-6	Sentencing Reform	5/26/11	Dept. of Probation, Parole and Pardon Ser
4169		SR35-6	Unemployment Insurance Reform (Updates to Article 1)	6/01/11	Department of Employment and Workforce
4170		SR35-6	Unemployment Insurance Reform (Updates to Article 2)	6/01/11	Department of Employment and Workforce
4171		SR35-6	Unemployment Insurance Reform (Updates to Article 3)	6/01/11	Department of Employment and Workforce
4163			Board of Landscape Architectural Examiners	1/17/12	Board of Landscape Architectural Exam
4161			Water Classifications and Standards	1/24/12	Department of Health and Envir Control
4162			Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	1/26/12	Environmental Certification Board
4157	R.78	SR35-6	Requirements for Additional Areas of Certification	1/30/12	State Board of Education
4174			Hazardous Waste Management Regulations	2/21/12	Department of Health and Envir Control
4175			Hazardous Waste Management Planning	2/21/12	Department of Health and Envir Control
4176			Capital Expenditure Reviews Under Section 1122, Social Security Act	2/21/12	Department of Health and Envir Control
4180			Minimum Standards for Licensing Chiropractic Facilities	2/21/12	Department of Health and Envir Control
4182			Licensure for the Savannah River	3/19/12	Commissioners of Pilotage
4179			Electronic Equipment Collection and Recovery	3/24/12	Department of Health and Envir Control
4181			Certification of Need for Health Facilities and Services	5/07/12	Department of Health and Envir Control
Committee Request Assessment Report					
4132			Environmental Protection Fees (Radioactive Material Licenses Fees)	Tolled	Department of Health and Envir Control
4139			Environmental Protection Fees (Drinking Water Fees)	Tolled	Department of Health and Envir Control
Committee Request Withdrawal					
4168			Perpetual Care Cemetery Board	Tolled	SC Perpetual Care Cemetery Board
4164			Child Labor	Tolled	Division of Labor
4183			International Residential Code	Tolled	LLR-Building Codes Council
4184			Update of International and National Codes	Tolled	LLR-Building Codes Council
Resolution Introduced to Disapprove					
4126			South Carolina Pesticide Control (R.27-1079 only)	Tolled	Clemson University-State Crop Pest Comm.
Permanently Withdrawn					
4154			Food and Cosmetics		Department of Agriculture

2 COMMITTEE LIST OF REGULATIONS SUBMITTED TO GENERAL ASSEMBLY

In order by General Assembly review expiration date
The history, status, and full text of these regulations are available on the
South Carolina General Assembly Home Page: <http://www.sccstatehouse.gov/regnsrch.htm>

DOC. No.	SUBJECT	HOUSE COMMITTEE	SENATE COMMITTEE
4126	South Carolina Pesticide Control (R.27-1070, R.27-1077 and R.27-1078 only)	Agriculture and Natural Resources	Agriculture and Natural Resources
4130	Air Pollution Control Regulations and Standards; Standards of Performance for Asbestos Projects	Agriculture and Natural Resources	Agriculture and Natural Resources
4153	SC Safe Home Program Wind Inspectors and Contractors	Labor, Commerce and Industry	Banking and Insurance
4141	Seasons, Limits, Methods of Take and Special Use Restrictions on WMA's; Turkey Hunting Rules and Seasons	Agriculture and Natural Resources	Fish, Game and Forestry
4135	Rehabilitation of Designated Historic Buildings	Medical, Military, Pub & Mun Affairs	Judiciary
4138	Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms	Labor, Commerce and Industry	Judiciary
4156	Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)	Education and Public Works	Education
4158	Requirements for Certification at the Advanced Level	Education and Public Works	Education
4145	South Carolina HOPE Scholarship	Education and Public Works	Education
4146	LIFE Scholarship & LIFE Scholarship Enhancement	Education and Public Works	Education
4147	Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions	Education and Public Works	Education
4148	South Carolina Need-based Grants Program	Education and Public Works	Education
4149	Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement	Education and Public Works	Education
4137	Customer Deposits and Deposit Retention	Labor, Commerce and Industry	Judiciary
4159	Sentencing Reform	Judiciary	Corrections and Penology
4169	Unemployment Insurance Reform (Updates to Article 1)	Labor, Commerce and Industry	Labor, Commerce and Industry
4170	Unemployment Insurance Reform (Updates to Article 2)	Labor, Commerce and Industry	Labor, Commerce and Industry
4171	Unemployment Insurance Reform (Updates to Article 3)	Labor, Commerce and Industry	Labor, Commerce and Industry
4163	Board of Landscape Architectural Examiners	Labor, Commerce and Industry	Labor, Commerce and Industry
4161	Water Classifications and Standards	Agriculture and Natural Resources	Agriculture and Natural Resources
4162	Applications for Certification; Renewal of License and Permit, Continuing Education; and Operator-in-Training Licenses	Agriculture and Natural Resources	Labor, Commerce and Industry
4157	Requirements for Additional Areas of Certification	Education and Public Works	Education
4174	Hazardous Waste Management Regulations	Agriculture and Natural Resources	Medical Affairs
4175	Hazardous Waste Management Planning	Agriculture and Natural Resources	Medical Affairs
4176	Capital Expenditure Reviews Under Section 1122, Social Security Act	Ways and Means	Medical Affairs
4180	Minimum Standards for Licensing Chiropractic Facilities	Medical, Military, Pub & Mun Affairs	Medical Affairs
4182	Licensure for the Savannah River	Agriculture and Natural Resources	Labor, Commerce and Industry
4179	Electronic Equipment Collection and Recovery	Agriculture and Natural Resources	Medical Affairs
4181	Certification of Need for Health Facilities and Services	Medical, Military, Pub & Mun Affairs	Medical Affairs
Committee Request Assessment Report			
4132	Environmental Protection Fees (Radioactive Material Licenses Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
4139	Environmental Protection Fees (Drinking Water Fees)	Agriculture and Natural Resources	Agriculture and Natural Resources
Committee Request Withdrawal			
4168	Perpetual Care Cemetery Board	Labor, Commerce and Industry	Labor, Commerce and Industry
4164	Child Labor	Labor, Commerce and Industry	Labor, Commerce and Industry
4183	International Residential Code	Labor, Commerce and Industry	Labor, Commerce and Industry
4184	Update of International and National Codes	Labor, Commerce and Industry	Labor, Commerce and Industry
Resolution Introduced to Disapprove			
4126	South Carolina Pesticide Control (R.27-1079 only)	Agriculture and Natural Resources	Agriculture and Natural Resources
Permanently Withdrawn			
4154	Food and Cosmetics	Medical, Military, Pub & Mun Affairs	Agriculture and Natural Resources

Executive Order No. 2011-11

WHEREAS, on May 22, 2011, a freight truck pulling a box trailer struck the SC Route 150 bridge overpass along I-85 Northbound; and

WHEREAS, the impact of the collision and ensuing fire resulted in catastrophic failure of the bridge and damage to the mainline I-85 pavement and guardrail, requiring immediate closure of I-85 Northbound for more than 48 hours and complete closure of SC Route 150 due to the collapse of the federal-aid bridge; and

WHEREAS, repairs to mainline I-85 and the complete bridge replacement required for SC Route 150 are beyond the scope of extraordinary maintenance; and

WHEREAS, these conditions constitute an emergency as is contemplated by the terms of Section 125 of Title 23, United States Code.

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby declare that an emergency exists as a result of the crash at I-85 and SC Route 150 and direct the South Carolina Department of Transportation to undertake actions to replace the collapsed bridge to ensure the safety and well-being of the traveling public. I further direct the Department of Transportation to take all necessary action to obtain the federal approval of the Federal Highway Division Administrator to make Federal Highway Division Emergency Relief assistance available to the State.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA
THIS 26th DAY OF MAY, 2011.**

NIKKI R. HALEY
Governor

Executive Order No. 2011-12

WHEREAS, Kathyryne Butler has resigned as McCormick County Clerk of Court, effective December 31, 2010; and

WHEREAS, the undersigned is authorized to appoint a County Clerk of Court in the event of a vacancy pursuant to Sections 1-3-220(2), 4-11-20(1) and 14-17-30 of the South Carolina Code of Laws, as amended; and

WHEREAS, Gwendolyn D. Chiles residing at 110 Hack Leverette Road, McCormick, South Carolina 29835, is a fit and proper person to serve as the McCormick County Clerk of Court.

4 EXECUTIVE ORDERS

NOW, THEREFORE, pursuant to the authority vested in me by the Constitution and Statutes of this State, I hereby appoint Gwendolyn D. Chiles as Clerk of Court of McCormick County until the next general election for this office and until her successor shall qualify.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 27th DAY OF MAY, 2011.**

**NIKKI R. HALEY
Governor**

Executive Order No. 2011-13

WHEREAS, the General Assembly of the State of South Carolina has pending before it several matters of great importance, including significant State Government Restructuring reforms, specifically H.3066, H. 3267, H.3070, and H.3152; and

WHEREAS, Article IV, Section 19 of the South Carolina Constitution states in pertinent part that “[t]he Governor may on extraordinary occasions convene the General Assembly in extra session;” and

WHEREAS, understanding the duties and responsibilities placed on me by the Constitution and laws of this State, I have determined that there exists an extraordinary occasion requiring me to convene the General Assembly in extra session prior to the next regular session of the General Assembly.

NOW, THEREFORE, pursuant to the powers conferred upon me by the Constitution and Statutes of the State of South Carolina, and by the power vested in me by Article IV, Section 19 of the Constitution of the State of South Carolina, I hereby call an extra session of the General Assembly of South Carolina to convene at the State House in Columbia on Tuesday, June 7, 2011 at 10:00 a.m.

**GIVEN UNDER MY HAND AND THE GREAT
SEAL OF THE STATE OF SOUTH CAROLINA,
THIS 2nd DAY OF JUNE, 2011.**

**NIKKI R. HALEY
Governor**

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL**NOTICE**

In accordance with Section 44-7-200(D), Code of Laws of South Carolina, the public is hereby notified that a Certificate of Need application has been accepted for filing and publication June 24, 2011, for the following project(s). After the application is deemed complete, affected persons will be notified that the review cycle has begun. For further information, please contact Mrs. Sarah "Sallie" C. Harrell, Division of Planning and Certification of Need, 2600 Bull St., Columbia, SC 29201 at (803) 545-4200.

Affecting Charleston County

Conversion of twenty (20) existing licensed institutional nursing home beds to twenty (20) community nursing home beds to be added to the existing twenty-four (24) community nursing home beds for a total of forty-four (44) community nursing home beds that will not participate in the Medicaid (Title XIX) Program
Lutheran Homes of SC, Inc. d/b/a Franke Health Care Center
Mount Pleasant, South Carolina
Project Cost: \$0

Affecting Cherokee County

Establishment of a Home Health Agency restricted to the provision of pediatric home health services in Cherokee County to children eighteen (18) years of age and younger
HomeChoice Partners, Inc.
Duncan, South Carolina
Project Cost: \$2,280

Affecting Georgetown County

Construction for the establishment of a freestanding ambulatory surgical facility with four (4) operating rooms
Murrells Inlet ASC, LLC
Murrells Inlet, South Carolina
Project Cost: \$6,427,300

Affecting Greenville County

Establishment of a Home Health Agency restricted to the provision of pediatric home health services in Greenville County to children eighteen (18) years of age and younger
HomeChoice Partners, Inc.
Duncan, South Carolina
Project Cost: \$2,280

Affecting Laurens County

Establishment of a Home Health Agency restricted to the provision of pediatric home health services in Laurens County to children eighteen (18) years of age and younger
HomeChoice Partners, Inc.
Duncan, South Carolina
Project Cost: \$2,280

6 NOTICES

Affecting Lexington County

Conversion of forty-two (42) existing licensed institutional nursing home beds to forty-two (42) community nursing home beds to be added to the existing twenty (20) licensed community beds for a total of sixty-two (62) community nursing home beds that will not participate in the Medicaid (Title XIX) Program

South Carolina Episcopal Home at Still Hopes, Inc.

West Columbia, South Carolina

Project Cost: \$0

Affecting Union County

Establishment of a Home Health Agency restricted to the provision of pediatric home health services in Union County to children eighteen (18) years of age and younger

HomeChoice Partners, Inc.

Duncan, South Carolina

Project Cost: \$2,280

Affecting Oconee County

Establishment of a Home Health Agency restricted to the provision of pediatric home health services in Oconee County to children eighteen (18) years of age and younger

HomeChoice Partners, Inc.

Duncan, South Carolina

Project Cost: \$2,280

Affecting Pickens County

Establishment of a Home Health Agency restricted to the provision of pediatric home health services in Pickens County to children eighteen (18) years of age and younger

HomeChoice Partners, Inc.

Duncan, South Carolina

Project Cost: \$2,280

Construction of a fifty (50) bed addition to accommodate the transfer of forty-four (44) nursing home beds from Redeemer Health & Rehab of Pickens (Pickens, SC) and six (6) nursing home beds from Capstone Health & Rehab of Easley (Easley, SC) for a total licensed bed capacity of one hundred-thirty (130) nursing home beds

Manna Health & Rehab of Pickens, LLC

Pickens, South Carolina

Project Cost: \$3,723,624

In accordance with Section 44-7-210(A), Code of Laws of South Carolina, and S.C. DHEC Regulation 61-15, the public and affected persons are hereby notified that for the following projects, applications have been deemed complete, and the review cycle has begun. A proposed decision will be made as early as 30 days, but no later than 120 days, from June 24, 2011. "Affected persons" have 30 days from the above date to submit comments or requests for a public hearing to Mr. Les W. Shelton, Division of Planning and Certification of Need, 2600 Bull Street, Columbia, S.C. 29201. If a public hearing is timely requested, the Department's decision will be made after the public hearing, but no later than 150 days from the above date. For further information call (803) 545-4200.

Affecting Florence County

Construction for the replacement of a linear accelerator with stereotactic radiosurgery capabilities
McLeod Regional Medical Center
Florence, South Carolina
Project Cost: \$6,934,000

Affecting Georgetown County

Construction and renovation for the expansion of the surgery department to include the addition of four (4) operating rooms (ORs) for a total of eight (8) ORs
Waccamaw Community Hospital
Murrells Inlet, South Carolina
Project Cost: \$25,429,144

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL

PUBLIC NOTICE

Section IV of R.61-98, the State Underground Petroleum Environmental Response Bank (SUPERB) Site Rehabilitation and Fund Access Regulation, requires that the Department of Health and Environmental Control evaluate and certify site rehabilitation contractors to perform site rehabilitation of releases from underground storage tanks under the State Underground Petroleum Environmental Response Bank (SUPERB) Act.

Class I Contractors perform work involving the collection and interpretation of investigative data; the evaluation of risk; and/or the design and implementation of corrective action plans. Class I applicants must satisfy registration requirements for a Professional Engineer or Geologist in South Carolina. Class II Contractors perform work involving routine investigative activities (e.g., soil or ground water sampling, well installation, aquifer testing) where said activities do not require interpretation of the data and are performed in accordance with established regulatory or industry standards.

Pursuant to Section IV.B.1., the Department is required to place a list of those contractors requesting certification on public notice and accept comments from the public for a period of thirty (30) days. If you wish to provide comments regarding the companies and/or individuals listed below, please submit your comments in writing, no later than July 25, 2011 to:

Contractor Certification Program
South Carolina Department of Health and Environmental Control
Bureau of Land and Waste Management - Underground Storage Tank Program
Attn: Michelle Dennison
2600 Bull Street
Columbia, SC 29201

The following companies and/or individuals have applied for certification as Underground Storage Tank Site Rehabilitation Contractors:

8 NOTICES

Class I

PM Environmental, Inc.
Attn: John Hargraves
1930 Derita Rd, Ste 109
Concord, NC 28027

J2 Engineering, Inc.
Attn: Fred Portofe, PG
6921 Pistol Range Rd, Ste 101
Tampa, FL 33635

One Environmental Group, LLC
Attn: John Elijah Meade Hollan
500 Libbie Ave, Ste 2A
Richmond, VA 23226

DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
CHAPTER 61

Statutory Authority: 1976 Code Sections 44-56-30 et seq.

Notice of Drafting:

The South Carolina Department of Health and Environmental Control (Department) proposes to amend R.61-79, Hazardous Waste Management Regulations. Interested persons are invited to present their views in writing to Richard Haynes, Director of the Division of Waste Management, Bureau of Land and Waste Management, Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201. To be considered, comments must be received no later than 5:00 p.m. on Monday, July 26, 2011 the close of the drafting comment period.

Synopsis:

The United States Environmental Protection Agency (EPA) promulgates amendments to 40 CFR 260 through 266, 268, 270, and 273 during the calendar year. South Carolina intends to adopt two final federal amendments that were published in the period between July 1, 2009 and June 30, 2010 and to correct errors and omissions in previously adopted regulations, as follows:

1. The first rule is the Organization for Economic Cooperation and Development (OECD), Requirements; Export Shipments of Spent Lead-Acid Batteries. This rule implements recent changes to the agreements concerning the transboundary movement of hazardous waste among countries belonging to the OECD, establishes notice and consent requirements for spent lead-acid batteries intended for reclamation in a foreign country, specifies requirements for exception reports concerning hazardous waste exports and requirements for U.S. receiving facilities for import consent documentation of incoming hazardous waste import shipments. This rule was published by the USEPA in the Federal Register January 8, 2010 at 75 FR 1236. The adoption of this rule is optional to States.
2. The second rule covers Hazardous Waste Technical Corrections and Clarifications published in the Federal Register March 18, 2010 at 75 FR 12989. The rule makes corrections to errors made by EPA. A number of technical errors in the hazardous waste regulations have occurred over time in numerous final rules published in the Federal Register, such as typographical errors, incorrect or outdated citations, incorrect cross references and omissions. Some of the corrections are necessary to make conforming changes to all appropriate parts of the RCRA hazardous waste regulations for new rules that have since been promulgated. In addition, these changes clarify existing parts of the hazardous waste regulatory program and update references to Department of Transportation (DOT) regulations that have changed since the publication of various RCRA final rules.
3. The Department also intends to correct several omissions in language and errors that were made by the South Carolina Hazardous Waste Management program in this regulation amendment package. South Carolina Hazardous Waste Management Regulations are adopted verbatim to match the Code of Federal Regulations. Some of the errors and omissions being corrected were a result of an incomplete transfer of information from the EPA to the state. These corrections would bring South Carolina Hazardous Management Regulations into conformity with the US Code of Federal Regulations. These proposed corrections will be made to regulations that have been previously approved and adopted by the SC DHEC Board and approved by the Legislature. No new rules will be included in the corrections.

These amendments of R.61-79 will maintain conformity with federal regulations.

Legislative review of these amendments will be required.

10 PROPOSED REGULATIONS

Document No. 4190
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: Individuals with Disabilities Education Improvement Act of 2004,
20 U.S.C. 1400 et seq.

43–243.1. Criteria for Entry into Programs of Special Education for Students with Disabilities

Preamble:

The State Board of Education proposes to amend R.43-243.1 to align state rules, regulations, and policies relating to the education of children with disabilities to the purposes and requirements of the Individuals with Disabilities Education Improvement Act of 2004 regulation 34 CFR Parts 300 and 301 as amended August 28, 2009. This regulation will amend current regulation 43-243.1.

The Notice of Drafting for the proposed amendments was published in the *State Register* on September 24, 2010.

Section-by-Section Discussion

One category name has changed and all have been arranged alphabetically thereby changing the section for each. The evaluation requirement for each category of disability under each section has been removed and placed in a document to accompany the regulation. The term “mental disabilities” has been changed to “intellectual disabilities” consistent with Public Law No. 111-256 (P.L. 111-256), also known as Rosa’s Law. Rosa’s Law amends the Individuals with Disabilities Education Act, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act of 1973, and several other federal laws to strike variations of the term “mentally retarded” and replace them with variations of the term “intellectual disability.”

The criteria section for each category of disability has been reworded to refer to the consideration of evidence, consistent with the IDEA requirement to review and consider all existing information prior to determining the need for additional assessments. Criteria also include the need for specialized instruction or related services as a condition for eligibility, consistent with the IDEA requirement that a child must have a disability that adversely effects educational performance and requires special education and related services.

Section A	Delete part of General Requirements; Updates the language on the category of intellectual disabilities
Section B	Changes the section from Developmental Delay to Autism; Changes the definition of autism to include spectrum disorders; Changes the criteria to be consistent with the revised definition
Section C	Changes the section from Mental Disability to Deaf-blindness; Specifies that the hearing loss can be at any one frequency
Section D	Changes the section from Specific Learning Disability to Deaf/Hard of Hearing; Changes educational performance to academic or functional performance; Specifies that the hearing loss can be at any one frequency
Section E	Changes the section from Emotional Disability to Developmental Delay; Adds that the developmental delay must be identified before the age of 7; Adds that the delay is not due to the presence of any other disability in ages six through seven
Section F	Changes the section from Speech or Language Impairment to Emotional Disability; Specific evaluation criteria moved to the standards document
Section G	Changes the section from Deaf and Hard of Hearing to Intellectual Disabilities;
Section H	Changes the section from Visual Impairment to Multiple Disabilities; Changes the term mental retardation to intellectual disabilities

Section I	Changes the section from Deaf-blindness to Specific Learning Disabilities
Section J	Changes the section from Orthopedic Impairment to Other Health Impairment
Section K	Changes the section from Other Health Impairment to Orthopedic Impairment
Section L	Changes the section from Traumatic Brain Injury to Speech-Language Impairment
Section M	Changes the section from Autism to Traumatic Brain Injury
Section N	Changes the section from Multiple Disabilities to Visual Impairment; Changes visual field of 20 degrees to visual field of 40 degrees
Section O	No changes

Notice of Public Hearing and Opportunity for Public Comment:

Interested members of the public and regulated community are invited to make oral or written comments on the proposed regulation at the public hearing to be conducted by the State Board of Education at its meeting on August 18, 2011, at 1:00 pm in the Rutledge Conference Center, 1429 Senate Street, Columbia, South Carolina. Persons desiring to make oral comments at the hearing are asked to limit their statements to five minutes or less, and as a courtesy, are asked to provide written copies of their presentation for the record.

Interested persons are also provided an opportunity to submit written comments on the proposed amendments by writing to Marlene Metts, Director, Office of Exceptional Children, 1429 Senate Street, Columbia, South Carolina 29201, or email mametts@ed.sc.gov. Comments submitted by July 25, 2011 at 5:00 p.m. shall be submitted to the Board.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the state or its political subdivisions.

Statement of Need and Reasonableness:

The amendments to this regulation are needed to establish definitions and set criteria for eligibility, consistent with current practice and in compliance with the Individuals with Disabilities Education Improvement Act (IDEA).

DESCRIPTION OF REGULATION: R.43-243.1, Criteria for Entry into Programs of Special Education for Students with Disabilities.

Purpose: Regulation 43-243.1 is being amended.

Legal Authority: Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. § 1400 et seq. (2004).

Plan for implementation: The proposed amendments would be incorporated within Regulation 43-243.1 upon publication in the State Register as a final regulation. The South Carolina Department of Education provides routine training on eligibility determination.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The amendment is needed to update definitions and criteria for the determination of eligibility for students with disabilities.

12 PROPOSED REGULATIONS

DETERMINATION OF THE COSTS AND BENEFITS:

There will be no increased costs to the state or its political subdivisions.

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

This regulation does not have any effect on the environment or public health.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

There will be no detrimental effect on the environment or public health if this regulation is not implemented.

Statement of Rationale:

The purpose of the proposed amendments is to align SBE regulations with the IDEA (2004) definitions of disability terms and to set criteria for deciding eligibility for each of the disability categories. This action is necessary to align South Carolina eligibility requirements for student with disabilities with current research and best practice, and to ensure compliance with the IDEA (2004).

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 4189

PUBLIC SERVICE COMMISSION

CHAPTER 103

Statutory Authority: 1976 Code Section 58-3-140

103-823.1. Financing Applications

Preamble:

The Public Service Commission of South Carolina (Commission) is proposing to create a new regulation that outlines certain information that must be submitted with electric utility financing applications filed with the Commission. Order No. 1991-72 addresses information that must be filed with financing applications of all regulated electric utilities. According to Order No. 1991-72, six questions/issues must be answered in financing applications filed by electric utilities. One of the benefits of an electric utility filing this information simultaneously with its financing application is the Commission can thoroughly review the effect of the application on the electric utility as a whole.

The Notice of Drafting regarding this regulation was published on December 24, 2010, in the *State Register*.

Section-by-Section Discussion

103-823.1. Financing Applications. This proposed new regulation requires electric utilities to file certain information with financing applications. Such additional information includes, but is not limited to, the effect

of the proposed financing on the utility's income statement, balance sheet, and capital structure and information on the possible impact on the utility if the proposed financing is not approved or if approval is delayed.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the Public Service Commission, Clerk's Office, 101 Executive Center Drive, Columbia, South Carolina 29210. Please reference Docket Number 2010-402-E. To be considered, comments must be received no later than 4:45 p.m. on August 1, 2011. Interested members of the public and the regulated community are invited to make oral or written comments on the proposed regulation at a public hearing to be conducted by the Public Service Commission on Wednesday, September 14, 2011, at 10:30 a.m. in the Commission's Hearing Room, 101 Executive Center Drive, Columbia, South Carolina 29210.

Preliminary Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Need and Reasonableness:

This statement of need and reasonableness was determined pursuant to S.C. Code Ann. Section 1-23-115(C)(1) through (3) and (9) through (11).

DESCRIPTION OF REGULATION: 103-823.1. Financing Applications.

Purpose: The purpose of the new regulation is to outline information that must be filed with electrical utility financing applications. This information will allow the Commission to thoroughly review not only the Company's request for financing but also the effects of the proposed financing on the Company as a whole. Examples of information that must be filed with financing applications include the expected effective rate of interest of any proposed debt financing and the possible impact on the utility if the proposed financing is not approved or if approval is delayed.

Legal Authority: S.C. Code Ann. Section 58-3-140 (Supp. 2010).

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The proposed new regulation governing financing applications is needed to delineate information that should be filed with electric utility financing applications. This information assists the Commission in determining the impact of a financing application on the Company as a whole. Such impacts include the effects on the Company's income statement, balance sheet, capital structure, and savings from early debt retirement.

DETERMINATION OF COSTS AND BENEFITS:

Although costs related to the proposed changes to the Commission's regulations are minimal, the benefits include the creation of a regulation that provides detailed information that an electrical utility must provide in conjunction with its financing application. This additional information will provide informative and relevant information that will assist the Commission in determining the disposition of the financing application.

14 PROPOSED REGULATIONS

UNCERTAINTIES OF ESTIMATES:

None.

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

The regulation will have no detrimental effect on the environment or public health if the regulation is not implemented.

Statement of Rationale:

The purpose of proposing the addition of Regulation 103-823.1 is to outline information that an electrical utility must file in conjunction with a financing application. This information is included in Commission Order No. 1991-72. The information delineated in Regulation 103-823.1 will provide a clearer picture for the Commission regarding the effect a financing application will have on an electrical utility as a whole. There was no scientific or technical basis relied upon in the development of this regulation.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: <http://www.scstatehouse.gov/regnsrch.htm>. Full text may also be obtained from the promulgating agency.

Document No. 4188
WORKERS' COMPENSATION COMMISSION
CHAPTER 67
Statutory Authority: 1976 Code Section 42-15-90

67-1302. Maximum Allowable Payments to Medical Practitioners

Preamble:

The South Carolina Workers' Compensation Commission proposes to amend Regulation 67-1302(A). The Notice of Drafting regarding this regulation was published on March 25, 2011 in the *State Register*.

Section-by-Section Discussion

Under Regulation R.67-1302(A), the Commission is limited to using a relative value scale and a single conversion factor when establishing maximum allowable payments for medical services provided by medical practitioners. The proposed amendment will remove the phrase from R.67-1302(A) relating to the relative value scale and the conversion factor to allow the Commission additional options for considering different methodologies for calculating the maximum allowable payments for medical services provided by medical practitioners. Also, R.67-1302(A)(2) is deleted.

Notice of Public Hearing and Opportunity for Public Comment:

Interested persons may submit written comments to the South Carolina Workers' Compensation Commission, Attention: Gary M. Cannon, Executive Director, Post Office Box 1715, Columbia, South Carolina 29202-1715. To be considered, comments must be received no later than 5:00 p.m. on Monday, August 8, 2011.

The South Carolina Workers' Compensation Commission has scheduled a public hearing for August 15, 2011 at 10:30 a.m. in Hearing Room A at the SC Workers' Compensation Commission, 1333 Main Street, Columbia, SC 29202.

Preliminary Fiscal Impact Statement:

The fiscal impact of the proposed changes to this regulation is \$0.

Statement of Need and Reasonableness:

The Workers' Compensation Commission is the regulatory agency of the State of South Carolina responsible for overseeing and administering the South Carolina Workers' Compensation Act, S.C. Code Ann. § 42-1-10 et seq. (1976). The Commission has the authority to approve or deny medical fees, as well as the statutory and regulatory discretion to set the amount of fines. § 42-15-90; R 67-1302.

DESCRIPTION OF REGULATION: R.67-1302. Maximum Allowable Payments to Medical Practitioners.

Purpose: Establishes the maximum allowable payment of services provided by medical practitioners.

Legal Authority: Section 42-15-90, Fees of attorneys and physicians and hospital charges shall be approved by Commission.

Plan for Implementation: The proposed regulation will take effect upon approval by the General Assembly and publication in the *State Register*.

DETERMINATION OF NEED AND REASONABLENESS OF THE PROPOSED REGULATION BASED ON ALL FACTORS HEREIN AND EXPECTED BENEFITS:

The Commission determined a need for considering the amendment to the regulation after receiving comments from medical services providers during the process to adopt the In-Patient Hospital Fee Schedule in 2006 and the adoption of the Medical Services Provider Manual in 2010. The proposed regulation is reasonable because it does not prohibit the Commission from continuing to utilize the existing financial models to develop the fee schedules. The change will provide the Commission the ability to consider more than one methodology when developing the maximum allowable payment for medical practitioners providing medical services in workers' compensation cases.

DETERMINATION OF COSTS AND BENEFITS:

There are no additional costs to the agency related to the proposed change to the regulations. The benefit of the proposed change is that it provides the Commission with the option to consider more than one methodology for developing a fee schedule.

UNCERTAINTIES OF ESTIMATES:

None.

16 PROPOSED REGULATIONS

EFFECT ON ENVIRONMENT AND PUBLIC HEALTH:

None.

DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE REGULATION IS NOT IMPLEMENTED:

None.

Statement of Rationale:

The Commission is proposing to amend regulation R.67-1302(A) to remove the limitation of using a relative value scale and one conversion factor.

Text:

The full text of this regulation is available on the South Carolina General Assembly Home Page: **<http://www.scstatehouse.gov/regnsrch.htm>**. Full text may also be obtained from the promulgating agency.

Document No. 4172
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-63-710 et seq.

43-169. Food Service Management Company Contracts

Synopsis:

As part of an ongoing effort to implement uniform business practices wherever possible, the Division of Innovation and Support and the Office of Health and Nutrition are proposing this new regulation to codify an existing operating procedure and further streamline the process by which food service management company contracts are developed, executed, and monitored.

The Notice of Drafting was published in the *State Register* on July 23, 2010.

Instructions: Print new regulations as shown below.

Text:

I. PURPOSE

Pursuant to regulations and policy guidelines promulgated by the United States Department of Agriculture (USDA), the South Carolina Department of Education (SCDE) is charged with the state-level administration and monitoring of local child nutrition programs funded by and subject to the provisions of the National School Lunch, Breakfast, and After-School Snack Programs. Part of this responsibility relates to the development, execution, and monitoring of contracts between local child nutrition programs and private food service management companies. This regulation provides that a statewide contract template and uniform timeframe shall be used for all contracts approved by the SCDE.

II. DEFINITIONS

A. SCHOOL FOOD AUTHORITY (SFA): A school food authority (SFA) is USDA verbiage used to identify any public school district, private, parochial, and charter school, as well as residential child care facility that participates in the National School Lunch, Breakfast, and After-School Snack Programs.

B. FOOD SERVICE MANAGEMENT COMPANY (FSMC): A food service management company (FSMC) is USDA verbiage used to identify a private sector entity that manages a child nutrition program for a SFA versus the SFA operating their own program.

III. IMPLEMENTATION

A. SOUTH CAROLINA DEPARTMENT OF EDUCATION (SCDE) RESPONSIBILITIES

(1) The SCDE shall create and update, as needed, a template contract document with appropriate terms and conditions that encompass all federal and state requirements for procurement agreements and child nutrition programs.

(2) The SCDE shall communicate all contractual requirements to all affected parties as part of any solicitation, bid, award, and final contract process initiated by a SFA.

(3) The SCDE reserves the right to accept, modify, and/or reject any request for deviations and/or amendments to the template contract document.

B. SCHOOL FOOD AUTHORITY (SFA) RESPONSIBILITIES

18 FINAL REGULATIONS

(1) A SFA shall communicate in writing any requested deviations and/or amendments to the template contract document, to include a justification as to why said changes are necessary.

C. FOOD SERVICE MANAGEMENT COMPANY (FSMC) RESPONSIBILITIES

(1) A FSMC shall communicate in writing any requested deviations and/or amendments to the template contract document, to include a justification as to why said changes are necessary

D. CONTRACT TIMEFRAMES

(1) The fiscal year for all food service management company contracts shall commence on July 1 and conclude on June 30.

Fiscal Impact Statement:

There will be no increased costs to the state, its political subdivisions, other non-profit educational entities that participate in the National School Lunch, Breakfast, or After-School Snack Programs, and/or food service management companies

Statement of Rationale:

The United States Department of Agriculture (USDA) authorizes the South Carolina Department of Education (SCDE) to administer child nutrition programs for all eligible school food authorities (SFA) to include school districts, private, parochial, and charter schools, as well as residential child care facilities in South Carolina. A SFA may contract with a private food service management company to manage its food service operation involving these programs.

The Office of Health and Nutrition has developed a template in collaboration with several Southeastern states for SFAs to use when contracting food service operations with food service management companies. The template has been approved by the USDA and is seen as a model which other states have requested and copied.

The template contains all the required federal and state procurement standards pertaining to contracting food service operations. As provided in 7 CFR 210.19(e), the state agency may impose additional requirements which meet or exceed the required federal standards.

This regulation would require all school food authorities when contracting their food service operations to use the statewide template. This action will help standardize and simplify the complex and detailed process for SFAs. It also curtails any attempt by food service management companies to include their own terms and conditions which could potentially jeopardize the legitimacy of the process.

The USDA currently requires all food service management contracts to be written for a one-year period but they can be extended up to four additional one-year periods. The fiscal year for all school districts and state agencies is July 1 through June 30. This regulation would also require all food service management contracts to commence on July 1 through June 30. This action will also allow for continuity of all associated financial matters, including but not limited to employee pay and benefits, as well as the disposition of USDA commodities. In addition, the consumer price index from the United States Department of Labor is calculated in conjunction with this period. The consumer price index is the tool used to substantiate any request for increases by the food service management companies.

Document No. 4156
STATE BOARD OF EDUCATION
 CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 and 59-24-40

43-165.1. Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP)

Synopsis:

The Division of Educator Quality and Leadership strives to stay abreast of current and future trends in evaluation and development of educator performance. The proposed changes to Regulation 43-165.1 reflect our desire to keep this regulation current and relevant.

Regulation 43-165.1 outlines the processes used for assisting, developing, and evaluating principals employed in South Carolina public schools. Due to changes in other South Carolina regulations governing principal preparation and certification, as well as federal programs affecting principal evaluation, the Office of School Leadership is proposing amendments to Regulation 43-165.1 (Program for Assisting, Developing, and Evaluating Principal Performance). The Notice of Drafting was published in the *State Register* on July 23, 2010.

Instructions: The following section of Regulation 43-165.1 is modified as provided below. All other items and sections remain unchanged.

Text:

I. PURPOSE

The State Board of Education, through the South Carolina Department of Education, is required to adopt statewide performance standards and criteria that shall serve as a foundation for all processes used for assisting, developing, and evaluating principals employed in the school districts of this state. School districts shall use the standards and procedures adopted by the State Board of Education for the purposes of conducting evaluations and guiding the professional development of principals. Districts are to consider evaluation results in making decisions regarding principal development, compensation, promotion, retention, and removal.

The South Carolina Department of Education shall ensure the implementation of the principal evaluation in the school districts.

Principals must be evaluated using the Performance Standards and Criteria for Principal Evaluation adopted by the State Board of Education. Additional performance standards and criteria may be established by the superintendent. As required by S.C. Code Ann. Section 59-24-30, the principal's annual Professional Development Plan (PDP) shall be established on the basis of the PADEPP Performance Standards and Criteria and the school's renewal plan.

II. DEFINITIONS FOR THE PURPOSES OF THIS EVALUATION PROGRAM

A. **PRINCIPAL:** A principal is the chief administrative head or director of an elementary, middle, or secondary school or of a vocational, technical, special education, or alternative school. Induction principals are those serving for the first time as building-level principals. These principals are considered probationary until they have completed the requirements of the Principal Induction Program (PIP) and have received an overall rating of Proficient or Exemplary on the PADEPP evaluation instrument in the second year of employment as a principal.

B. **EVALUATOR:** The evaluator is the district superintendent and/or the superintendent's designee. All evaluators must have successfully completed the Office of School Leadership's (OSL) Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP) training before evaluating principals.

20 FINAL REGULATIONS

C. **EVALUATION INSTRUMENT:** The evaluation instrument developed by the South Carolina Department of Education is based upon the PADEPP Performance Standards and Criteria and is available from the Office of School Leadership. In lieu of the state instrument, districts may request permission to use an alternative evaluation process that meets state requirements and national standards. This instrument must be approved by the South Carolina Department of Education and the State Board of Education.

D. **EVALUATION CYCLE:** The evaluation cycle shall be consistent with the school year as defined by law. After the induction year, principals shall be evaluated annually. A full evaluation using all PADEPP Performance Standards will be conducted every other year. Principal evaluations on years between full evaluations will include Performance Standard 2 Instructional Leadership, Performance Standards rated the previous year as “Needs Improvement”, and any additional Performance Standards identified for growth in the Principal’s Professional Development Plan (PDP). Full evaluations may, of course, be conducted every year, if the superintendent chooses to do so.

III. PROGRAM IMPLEMENTATION

A. PRINCIPALS WITH TIER 1 CERTIFICATION

(1) First-year principals shall participate in an induction program as provided for in State Board of Education Regulation 43-167, "Principal Induction Program." The superintendent or his or her designee shall provide the first-year principal with written and oral feedback relative to each performance standard and criterion. Principals are to receive this feedback at least at mid-year and end-of-year conferences.

The superintendent or his or her designee will observe, collect relevant data, consult with the first-year principal on a regular and consistent basis, and provide the first-year principal with an informal written evaluation.

(2) Second-year principals will enter the evaluation cycle. Upon completing the South Carolina Principal Induction Program (PIP) in year 1 and receiving an overall rating of *Proficient* or *Exemplary* on the PADEPP evaluation instrument in the second year of employment, the principal will be eligible for Tier 2 principal certification. If the overall rating on the PADEPP evaluation instrument in the second year of employment as a principal is *Needs Improvement*, the principal will remain on Tier 1 certification until the South Carolina Department of Education receives verification from the employing school district that the principal has achieved an overall rating of *Proficient* or *Exemplary* on PADEPP.

B. PRINCIPALS WITH TIER 2 CERTIFICATION

(1) The superintendent or his or her designee shall evaluate Tier 2 principals annually. The evaluation shall address each of the nine PADEPP Performance Standards and accompanying Criteria. A full evaluation using all PADEPP Performance Standards will be conducted every other year. Principal evaluations on years between full evaluations will include Performance Standard 2 Instructional Leadership, Performance Standards rated the previous year as “Needs Improvement”, and any additional Performance Standards identified for growth in the Principal’s Professional Development Plan (PDP). Full evaluations may, of course, be conducted every year, if the superintendent chooses to do so. A principal is to receive feedback from the superintendent or his designee regarding the principal’s performance at least at mid-year and end-of-year conferences.

IV. PERFORMANCE STANDARDS AND CRITERIA

Principal preparation programs and school districts must address, but are not limited to, the Performance Standards and Criteria for the Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP), as specified in the State Board of Education’s PADEPP implementation guidelines.

V. EVALUATION PROCESS

A. The evaluation of each principal shall consist of both formative and summative phases.

(1) The formative phase shall begin with an initial review of the evaluation instrument by the evaluator with the principal. Regular conferences shall be held to discuss the principal's progress and shall include an analysis of the data collected during the year.

(2) The summative phase shall provide for evaluative conclusions regarding the principal's performance based upon the data collected. Upon completion of the evaluation, the evaluator will meet with the principal to discuss the findings in terms of each of the PADEPP Performance Standards, as well as the overall results. At the conclusion of the meeting, the evaluator and the principal shall sign the evaluation form, and a copy shall be given to the principal.

B. After reviewing the overall results of the evaluation, the principal and evaluator shall establish the principal's annual Professional Development Plan (PDP) on the basis of the identified strengths and weaknesses, as well as the school's renewal plan.

C. Satisfactory performance on an evaluation does not guarantee reemployment as a principal.

D. Each principal has the right to respond in writing to the completed principal evaluation instrument. This written response must be submitted to the evaluator within ten working days of the summative conference.

E. All appeals shall follow local school district policies and procedures governing the local appeal process.

VI. DISTRICT RESPONSIBILITIES

A. Each school district shall ensure that principals receive awareness training that includes

- (1) the PADEPP Performance Standards and Criteria for Principal Evaluation,
- (2) the PADEPP principal evaluation instrument, and
- (3) Regulation 43-165.1, "Program for Assisting, Developing, and Evaluating Principal

Performance (PADEPP)."

B. Each school district shall ensure that the district superintendent and the superintendent's designee(s) are trained as evaluators of principals.

C. Each school district shall designate one individual to be trained as a district coordinator for PADEPP. This coordinator shall be responsible for the administration of the evaluation program consistent with this regulation, including an annual submission for all principals in their district.

D. Each school district shall maintain principal evaluation data and shall ensure the confidentiality of the evaluation results in accordance with the Freedom of Information Act.

E. Each school district shall submit annual assurances and required principal evaluation data to the South Carolina Department of Education indicating compliance with this regulation and PADEPP implementation guidelines.

F. Each school district shall utilize the results from the principal evaluations in decisions regarding principal development, compensation, promotion, retention, and removal.

VII. SOUTH CAROLINA DEPARTMENT OF EDUCATION RESPONSIBILITIES

A. The South Carolina Department of Education shall ensure that the PADEPP is appropriately implemented by each school district in accordance with this regulation and PADEPP implementation guidelines.

B. The South Carolina Department of Education shall collect from school districts required principal evaluation data, as well as Assurance/Validation forms, in order to

(1) determine trends and inform decisions concerning educational leadership preparation and professional development, and

(2) ensure that the Program for Assisting, Developing, and Evaluating Principal Performance is being appropriately administered in accordance with this regulation and the law governing the evaluation of principals.

C. The South Carolina Department of Education shall provide school districts with ongoing technical assistance in the form of training, consultation, and advisement. Specifically, the training will ensure that participants have the knowledge and skills necessary to collect and document data relative to a principal's performance, analyze the data to identify the principal's performance strengths and weaknesses, provide

22 FINAL REGULATIONS

feedback to the principal in terms of the PADEPP Performance Standards and Criteria, and counsel, coach, and assist the principal to improve effectiveness. Additionally, the training will ensure that participants are prepared to evaluate the principal in a valid, reliable manner, and to make a summative judgment regarding the principal's performance.

Fiscal Impact Statement:

There will be no increased costs to the state or its political subdivisions.

Statement of Rationale:

The Division of Educator Quality and Leadership strives to stay abreast of current and future trends in evaluation and development of educator performance.

Regulation 43-165.1 outlines the processes used for assisting, developing, and evaluating principals employed in South Carolina public schools. Due to changes in other South Carolina regulations governing principal preparation and certification, as well as federal programs affecting principal evaluation, the Office of School Leadership is proposing amendments to Regulation 43-165.1 (Program for Assisting, Developing, and Evaluating Principal Performance).

Document No. 4157

STATE BOARD OF EDUCATION

CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 and 59-25-110

43-62. Requirements for Additional Areas of Certification

Synopsis:

This regulation needs to be amended to create a new add-on certification in Early Childhood Special Education and revise add-on certification requirements for visual impairment. The Notice of Drafting was published in the *State Register* on July 23, 2010.

Instructions: The following section of Regulation 43-62 is modified as provided below. All other items and sections remain unchanged.

Text:

I. GENERAL INFORMATION

A. Individuals who desire to add areas of certification to an existing certificate must complete a State Board of Education-approved program and present a passing score on the appropriate content-area examination(s) in the specific subject field, or complete the following add-on certification requirements specified by the Board.

B. In the event that the State Board of Education should eliminate, revise, or adopt new certification areas, currently certified individuals who are affected may retain the areas of certification for which they previously qualified. However, the State Board of Education may require previously certified individuals to upgrade their certification by completing the new requirements within a specified period of time.

C. The following designations apply to the grade spans for teacher certification in South Carolina, effective September 1, 2005.

CERTIFICATION GRADE SPANS

Early childhood = pre-Kindergarten-grade 3

Elementary = grades 2-6

Middle-level = grades 5-8

Secondary = grades 9-12

The areas of art, music, physical education, English for Speakers of Other Languages (ESOL), foreign languages, theater, and exceptional children education (all categories) have a pre-Kindergarten (pre-K-12) grade span.

D. Instructional areas may not be added to certificates in guidance, media specialist, or school psychologist unless the applicant has completed a teacher education program designed and approved for initial certification purposes.

E. Certification is divided into four sections: (1) regular program, (2) exceptional children education, (3) career and technology education, and (4) other types of specialized certification.

II. REGULAR PROGRAM ADD-ON CERTIFICATION REQUIREMENTS

The following areas are included:

- A. Art
- B. Driver Education
- C. Early Childhood Education
- D. Elementary Education
- E. English
- F. English for Speakers of Other Languages (ESOL)
- G. Gifted and Talented
- H. Health Education
- I. Literacy
- J. Mathematics
- K. Middle-level Education
- L. Music Education
- M. Physical Education
- N. Science
- O. Social Studies
- P. Theater
- Q. World Languages

- A. Art
 - 1. Bachelor's degree
 - 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
 - 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Art History/Appreciation	6
Work devoted to the basic techniques of design and color	6
Work devoted to drawing and painting (the student should use as many different media as possible)	6
School art program	3
Crafts	3

24 FINAL REGULATIONS

B. Driver Education

1. Bachelor's degree
 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
 3. Evidence of at least three years of successful driving experience. Applicant must provide a copy of his or her driver's record from the applicable state transportation department. An applicant whose driver's license has six or more points against it will not be accepted for add-on certification in driver education.
 4. Valid driver's license issued by South Carolina or another state in which the teacher is a legal resident. (If a teacher holding certification in driver education has his or her driver's license revoked or suspended, the teacher must report this action to the Office of Educator Certification upon which the certification in driver education will automatically be rescinded.)
 5. Professional education
- The following twelve (12) hours are required to add the area of driver education to an existing certificate.

	Semester Hours
Basic instructor's course in driver education	3
Advanced instructor's course in driver education	3
Electives (from the list below)	6
Range and Simulation of Driver Education	
Emergency Maneuvers	
Multimedia Systems in Traffic Safety Education	
Research Methods in Traffic Safety Education	
General Safety	
Drugs in Relation to Highway Safety	
Motorcycle Safety Education	
Administration of Traffic Safety Education	

C. Early Childhood Education

1. Bachelor's degree
2. Initial or professional certificate at the elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

	Semester Hours
4. Specialized Preparation	
The Behavior and Development of the Young Child*	3
Curriculum for Early Childhood Education	3
Methods and Materials for Early Childhood	3
Practicum in Early Childhood Education**	3
Teaching Reading at the Elementary Level	3
OR	
Emergent Literacy	
Content courses in math, science, and social studies	9
(each must be represented)	

*Credits earned in the area of child psychology are acceptable.

**The practicum requirement may be waived based on one year's successful experience teaching in pre-K to third grade.

D. ELEMENTARY EDUCATION

1. Bachelor's degree
 2. Initial or professional certificate in early childhood, middle, secondary, or pre-K-12 level
 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
 4. Specialized Preparation
- | | Semester Hours |
|--|----------------|
| Teaching of Reading in the Elementary School | 6 |

Child Growth and Development	3
Mathematics for the Elementary School Teacher	3
Science for the Elementary Teacher	3
Social Studies for the Elementary Teacher	3
One of the following courses	3
Literature for Children	
Art for the Elementary School Teacher	
Music for the Elementary School Teacher	
Health for the Elementary School Teacher	

E. ENGLISH

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Language Structure and Skills	
Composition and Rhetoric	6
Advanced Composition and Rhetoric	3
Development of Modern English	3
Modern English Grammar	3
Teaching of Reading (Secondary)	3

Literature	
British Literature	3
American Literature	3
Adolescent Literature	3
Literary Criticism	3
Electives (Literature)	6

5. Endorsement in Advanced Placement English requires certification in English and the successful completion of the requisite Advanced Placement Institute.

F. ENGLISH FOR SPEAKERS OF OTHER LANGUAGES (ESOL)

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the South Carolina content area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Principles and Strategies for Teaching ESOL to Elementary and Secondary Learner	3
Linguistics	3
Teaching Reading and Writing to Limited English Proficient (LEP) Learners	3

Two electives from the following courses	6
Practicum in the Instruction of ESOL to Elementary and Secondary Learners*	
Testing/Assessment for Language Minority Learners	
ESOL Curriculum Design and Materials Development	
Teaching English through the Content Areas	
Bilingual Special Education	

26 FINAL REGULATIONS

Second Language Acquisition for Teachers of Elementary
and Secondary Learners
English Grammar/Structure
Cultural Diversity in Education

*Practicum may be waived based on one year's successful experience teaching ESOL.

5. Second-language learning experiences documented by any one of the following:

- (a) six semester hours in a single second language;
- (b) completion of intensive language training by the Peace Corps, the Foreign Service Institute, or the Defense Language Institute;
- (c) placement in a third-year-level course in the foreign language department at an accredited college or university; or
- (d) demonstration of second-language proficiency in a language that is unavailable at accredited institutions through verification in writing from an official designated by the South Carolina Department of Education.

G. GIFTED AND TALENTED EDUCATION

1. Bachelor's degree

2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation

Semester Hours

Requirements for elementary-level

Nature and Needs of Gifted and Talented Students 3

Introduction to Curriculum and Instruction for Gifted and Talented Students 3

Advanced Curriculum Practices for Gifted and Talented Students 3

Identification, Current Trends, and Issues in Gifted and Talented Education 3

Special Topics in Gifted and Talented Education 3

Practicum in Gifted and Talented Education 3

Requirements for middle-level

Nature and Needs of Gifted and Talented Students 3

Introduction to Curriculum and Instruction for Gifted 3

Advanced Curriculum Practices for Gifted and Talented Student 3

Content-area courses at the graduate level* 9

*For middle school teachers, content-area courses at the graduate level must be applicable to curriculum and instruction at the middle school level.

Requirements for secondary-level

Semester Hours

Nature and Needs of Gifted and Talented Students 3

Introduction to Curriculum and Instruction for Gifted and Talented Students 3

Advanced Curriculum Practices for Gifted and Talented Students 3

Content-area courses at the graduate level* 9

*For high school teachers, content-area courses at the graduate level must be applicable to curriculum and instruction at the high school level.

Gifted and Talented Endorsement (only)

In order to fulfill Regulation 43-220(II)(C), all teachers of a Gifted and Talented course or class must complete a training program that is approved by the South Carolina Department of Education. Completion of

the training specified here fulfills this requirement and provides an endorsement in Gifted and Talented Education:

A professional certificate in the teaching area

AND

Six (6) hours in the following courses

Semester Hours

Nature and Needs of Gifted and Talented Students

3

Introduction to Curriculum and Instruction for Gifted and Talented Students

3

H. HEALTH EDUCATION

1. Bachelor's degree

2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level

3. Minimum qualifying score(s) on the required content area examination(s) required by the State Board of Education

4. Specialized Preparation

Semester Hours

Required

Human Anatomy and Physiology (in addition to the 12 semester hours of basic science requirements)

3-4

School Health Program

2-3

Emergency Preparedness and First Aid

2-3

Additional Courses (selected from a minimum of three additional areas for a total of twenty-four semester hours)

Environmental Health

2-3

Foods and Nutrition Education

2-3

Contemporary Health Problems

2-3

Drug Education and Drug-Taking Behaviors

2-3

Family Living and Sex Education

2-3

Mental Health

2-3

Valuing and Decision Making in Health Education

2-3

Consumer Health Education

2-3

Community and Public Health Practices

2-3

Chronic and Communicable Disease

2-3

I. LITERACY

1. LITERACY TEACHER

(a) Bachelor's degree

(b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level

(c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Two years of successful teaching experience

(e) Specialized preparation (graduate credit)

Semester Hours

a. Foundations of Reading

3

b. Assessment Strategies for Reading

3

c. Content Area Reading and Writing

3

d. Instructional Strategies for Reading

3

e. Optional Practicum in Literacy*

3

*Practicum experiences should be included in the requirements of the courses as deemed necessary by each institution. These field experiences can be within a teacher's classroom and should support experiences with small and large group instruction. A separate practicum experience may be offered as a stand alone course option.

28 FINAL REGULATIONS

2. LITERACY COACH

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
- (d) Five years of successful teaching experience
- (e) Twelve (12) semester hours in courses required for Literacy Teacher
- (f) Specialized preparation (graduate credit)

	Semester Hours
a. Reading Instruction and Assessment for Diverse Learners	3
b. Coaching for Literacy Education	3
c. Action Research in Literacy Coaching	3
d. Practicum Experience*	3

*Based on individual program of study established by institution

3. LITERACY SPECIALIST

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
- (d) Five years of successful teaching experience
- (e) Twenty-four (24) semester hours in courses required for Literacy Teacher and Literacy Consultant or Literacy Coach
- (f) Specialized preparation (graduate credit)

	Semester Hours
a. Administration and Supervision in Literacy	3
b. Curriculum Development	3
c. Literacy Research	3
d. Additional Education Leadership Course *	3

*(Principalship, organizational theory for school administrators, school and community relations, school personnel, basic technology in administration, education evaluation, or public school administration)

J. MATHEMATICS

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
- 4. Specialized Preparation

	Semester Hours
Algebra (abstract, matrix, and linear)	6
Modern Geometry or Foundations of Geometry	3
Calculus	8
Three electives from the following subject areas	9
Probability or Statistics	
Applied or Discrete Mathematics	
Number Theory	
Analysis	
Algebra or Geometry (advanced courses)	
- 5. Endorsement in Advanced Placement Mathematics requires the successful completion of the requisite Advanced Placement Institute.

K. MIDDLE-LEVEL EDUCATION

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

Teachers who hold a professional certificate and who have three or more years of experience teaching in middle grades within the past five years on or before July 1, 2009, will be awarded middle-level certification in each subject area in which he or she has three or more years of successful experience according to the guidelines for Middle Grades Teacher Education and Certification, adopted by the State Board of Education.

Prior to October 1, 2007, teachers who meet the experience requirement and are adding middle-level certification will be exempt from the coursework, subject area exams and the pedagogy exam required for add-on certification in specific middle-level areas.

Between October 1, 2007, and July 1, 2009, teachers who meet the experience requirement and are adding middle-level certification must pass the subject area exam, and the pedagogy exam required by the State Board of Education in order to add subject-specific middle-level certification.

Teachers who have a teaching certificate but do not meet the three (3) year teaching requirement by July 1, 2009, must complete all coursework and examinations required for add-on certification in middle-level areas.

All teachers who teach in the middle grades must qualify for middle-level certification according to the phase-in plan approved by the State Board of Education.

4. Early Childhood, Elementary, Middle, or Secondary Teachers Adding Middle-level Education

- | | |
|--|-----------------------|
| (a) Specialized Preparation | Semester Hours |
| Middle-level Curriculum and Organization | 3 |
| Early Adolescent Growth and Development and Learning Communities | 3 |
| Teaching Reading and Writing in the Content Area | 3 |
| (b) Content preparation (for secondary teachers adding the same content field at the middle level) | |
| | Semester Hours |
| | No Additional Content |
| | Coursework Required |
| (c) Content preparation (for early childhood, elementary, or middle-level teachers adding a content field at the middle-level) | |

Semester Hours
15*

*All coursework must be in the particular middle-level field to be added (language arts, social studies, mathematics, or science), and, in the fields of social studies and science, at least three subject areas must be represented within the content field.

L. MUSIC EDUCATION

1. CHORAL

- (a) Bachelor's degree
- (b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- (c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

- | | |
|--|----------------------|
| (d) Specialized Preparation | Semester Hours |
| Applied Music (divided equally between piano and voice)* | 18 (or 3 full years) |
| Theory (harmony, ear training, sight singing) | 12 |
| Conducting | 4 |
| History and/or Literature of Music** | 6 |
| Instruction in choral methods (or two semesters) | 3 |
| Participation in ensembles (large or small) | 3 full years |

30 FINAL REGULATIONS

*A minimum of two half-hour lessons or one one-hour lesson per week for the full nine-month school year is accepted as one full year in any one area of Applied Music.

**The History and/or Literature of Music requirement may substitute for the Music Appreciation requirement in the General Education Program.

(e) Endorsement in Advanced Placement Music requires certification in music and the successful completion of the requisite Advanced Placement Institute.

2. INSTRUMENTAL

(a) Bachelor's degree
(b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level

(c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Specialized Preparation (band or orchestra)	Semester Hours
Applied music (divided equally among piano, one additional major instrument, and two additional instrument families)*	18 (or 3 full years)
Theory (harmony, ear training, sight singing)	12
Conducting	4
History and/or Literature of Music**	6
Instruction in wind, string and percussion instruments and in voice (or two semesters)	3
Participation in ensembles (large or small)	3 full years

*A minimum of two half-hour lessons or one one-hour lesson per week for the full nine-month school year is accepted as one full year in any one area of Applied Music.

**The History and/or Literature of Music requirement may substitute for the Music Appreciation requirement in the General Education Program.

(e) Endorsement in Advanced Placement Music requires certification in music and the successful completion of the requisite Advanced Placement Institute.

3. PIANO, VOICE, VIOLIN

(a) Bachelor's degree
(b) Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level

(c) Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

(d) Specialized Preparation (band or orchestra)	Semester Hours
Applied music (piano, voice, violin, organ)*	18
Theory (harmony, ear training, sight singing)	12
Conducting	4
History and/or Literature of Music**	6
Instruction in wind, string and percussion instruments (or two semesters)	3
Participation in ensembles (large or small)	3 full years

*A minimum of two half-hour lessons or one one-hour lesson per week for the full nine-month school year is accepted as one full year in any one area of applied music.

**The History and/or Literature of Music requirement may substitute for the Music Appreciation requirement in the General Education Program.

M. PHYSICAL EDUCATION

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
History, Principles, or Philosophy of Physical Education	3
Organization and Administration, Curriculum, or Evaluation of Physical Education	3
Human Physiology and Anatomy (in addition to the twelve semester hours in basic science requirements)	3
Materials and applied techniques	21
(This area involves multiple courses that require an understanding and mastery of the techniques of the various activities and their presentation and adaptation to the various age levels and groups.)	

Required courses

Games and Rhythms for the Elementary School-Aged Child
 Individual and Dual Sports
 Intramurals and Interscholastic Sports
 Movement Education
 Recreation and Outdoor Education
 Team Sports

Elective courses

Adapted Physical Education (exceptional or atypical children)
 Aquatics and Water Sports
 Stunts, Tumbling, and Gymnastics
 Rhythms
 Safety, First Aid, and Athletic Injuries
 Games and Activities of Low Organization

N. SCIENCE

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation (for teaching all sciences in high school)*

	Semester Hours
Biology	6-8
Chemistry	6-8
Physics	6-8
Marine Biology/Science	6-8

Electives in the following subject areas:

6-12

Biology
 Chemistry
 Physics
 Geology
 Geography
 Astronomy

*At least eighteen (18) semester hours of the thirty (30) semester hours must be in courses with a laboratory.

Certification will be granted in any one of the specific sciences when at least eighteen (18) semester hours of credit are presented. Six or more semester hours must be in laboratory courses.

5. Endorsement in the Advanced Placement sciences requires certification in a science area and the successful completion of the requisite Advanced Placement Institute.

32 FINAL REGULATIONS

O. SOCIAL SCIENCES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation (for teaching all social studies in high school)

	Semester Hours
Social studies	6
U.S. History	6
European History	6
Electives from economics, government, geography, and sociology (not more than 6 hours in any one field)	12
Electives from economics, geography, government, history, psychology, sociology, and the history of religion	6
History	
U.S. History	6
European History	6
Electives from history and/or government	6

One social studies field 18

(Certification will be granted in any one of the specific subjects--economics, geography, government, psychology, and sociology--for which eighteen (18) semester hours are presented.)

5. Endorsement in the Advanced Placement social sciences requires certification in a social studies area and the successful completion of the requisite Advanced Placement Institute.

P. THEATER

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level

3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation

	Semester Hours
Acting	3
Technical Theater (including stagecraft, lighting, Costuming, makeup)	6
Directing	3
Dramatic Literature	6
History of the Theater	3
Creative Drama	3
Theater arts elective	3

*In meeting the above requirements, the applicant with training or experience in the professional theater may offer the following substitutions for the courses listed:

(a) At least three (3) months full-time or twelve (12) months part-time acting training in a non-degree granting professional acting school (provided that the school employs at least three different teachers) may be substituted for the acting course.

(b) At least six (6) months of full-time employment in technical theater may be substituted for technical theater courses.

(c) Experience as director of at least five (5) full-length plays produced for a paying audience may be substituted for the directing course.

Q. WORLD LANGUAGES (including American Sign Language)

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
4. Specialized Preparation (one world-language field)*

	Semester Hours
French	18
German	18
Latin	18
Spanish	18
Russian	18
Japanese	18
American Sign Language	21
ASL coursework (12)	
ASL electives (9)**	

(ASL linguistics must be included among electives)

*The semester hours required must be above the six-hour introductory course.

**ASL electives may include Deaf Literature and Folklore, Discourse in American Sign Language, Deaf Studies in these United States, Discourse Analysis of ASL, Deaf History, Deaf Culture, Careers in American Sign Language, or other related coursework.
5. Endorsement in an Advanced Placement world language requires certification in the particular world language and the successful completion of the requisite Advanced Placement Institute.

III. EXCEPTIONAL CHILDREN ADD-ON CERTIFICATION

The following areas are included:

- A. Early Childhood Special Education
- B. Education of Blind and Visually Impaired
- C. Education of Deaf and Hard of Hearing
- D. Emotional Disabilities
- E. Learning Disabilities
- F. Mental Disabilities
- G. Multi-categorical Special Education
- H. Severe Disabilities
- I. Speech Language Therapist

A. EARLY CHILDHOOD SPECIAL EDUCATION

1. Bachelor's Degree
2. Initial or professional certificate at the early childhood or elementary level, or in special education or Speech and Language
3. Minimum qualifying score on the content area examination(s) required by the State Board of Education
4. Specialized Preparation

	Semester Hours
Human Growth and Development	3
Introduction to Early Childhood Special Education	3
Partnerships in Early Childhood Special Education: Teaming with Parents and Professionals	3
Assessment of Young Children with Disabilities	3
Procedures for Working with Young Children with Disabilities	3
Social/Emotional Development and Guidance for Young Children with Disabilities	3
Practicum/Field Experience*	3

34 FINAL REGULATIONS

*Practicum may be waived based on two years' successful experience teaching young children with disabilities.

NOTE: Individuals who have three (3) years teaching experience within the last five (5) years with young children with disabilities (birth to six years) will be granted add-on certification in Early Childhood Special Education by achieving the minimum qualifying score on the content area examination(s) required by the State Board of Education for Early Childhood Special Education within the five-year period.

Timeline: Effective July 1, 2016, all individuals working as Early Childhood Special Education teachers will be required to hold certification in Early Childhood Special Education.

B. EDUCATION OF BLIND AND VISUALLY IMPAIRED

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Teaching of Reading	3
Nature of Visually Impaired	3
Educational Procedures for Visually Impaired	3
Braille—Reading and Writing	3
Advanced Braille (that includes Nemeth Code)	3
Anatomy, Physiology, and Function of the Eye	3
Low Vision	3
Teaching Students with Multiple Handicaps	3
Practicum in Instruction of the Visually Impaired Child*	3

*Practicum may be waived based on two years' successful experience teaching visually impaired.

C. EDUCATION OF DEAF AND HARD OF HEARING

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Teaching of Reading	3
Methods/Procedures for Teaching Speech Reading	3
Psychology of Hearing Impaired	3
Teaching of Language to Students with Hearing Impairment	3

Two electives from the following courses	6
Educational Assessment	
Anatomy of the Auditory and Speech Mechanism	
History of Education and Guidance for the Hearing Impaired	
Audiology, Hearing Aids, and Auditory Training	
Methods of Teaching Elementary School Subjects	
Principles of Speech Correction	
Physical Education and Recreation for the Exceptional Child	
Nature of Emotional Disabilities	
Nature of Learning Disabilities	
Remedial Reading	

Practicum in Instruction of the Exceptional Child
 Introduction to Rehabilitation and Community Services
 Educational Psychology

D. EMOTIONAL DISABILITIES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Emotional Disabilities	3
Methods/Procedures for Emotional Disabilities	3
Behavior Management	3
Teaching Reading in General and Special Education	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Emotional Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching emotional disabilities

E. LEARNING DISABILITIES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Learning Disabilities	3
Methods/Procedures for Learning Disabilities	3
Behavior Management	3
Teaching Reading in General and Special Education	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Learning Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching learning disabilities.

F. MENTAL DISABILITIES

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Characteristics of Mental Disabilities	3
Methods/Procedures for Mental Disabilities	3
Behavior Management	3
Teaching Reading in General and Special Education	3
Assessment of Exceptional Learners	
Practicum in Instruction for Students with Mental Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching mental disabilities.

36 FINAL REGULATIONS

G. MULTI-CATEGORICAL SPECIAL EDUCATION

This area allows teachers to serve learners with mild to moderate disabilities, which include autism, emotional disabilities, learning disabilities, mental disabilities, and traumatic brain injury.

1. Bachelor's degree
2. Initial or professional certificate in either mental disabilities, emotional disabilities, or learning disabilities
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Learning Disabilities	3
Characteristics of Mental Disabilities	3
Characteristics of Emotional Disabilities	3
Methods/Procedures for Learning Disabilities	3
Methods/Procedures for Mental Disabilities	3
Methods/Procedures for Emotional Disabilities	3
Behavior Management	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Emotional Disabilities, and/or, Learning Disabilities, and/or, Mental Disabilities	6

OR

5. If certified in one area (mental disabilities, emotional disabilities, or learning disabilities) coursework is required in each of the two areas other than the teacher's certification area.

Characteristics	3
Methods in Procedures	3
Practicum*	3

OR

6. If certified in two areas (mental disabilities, emotional disabilities, or learning disabilities) coursework is required in the one remaining certification area.

Characteristics	3
Methods in Procedures	3
Practicum*	3

*Practicum (three semester hours) may be waived based on two years' successful experience teaching mental, emotional, or learning disabilities, as appropriate.

H. SEVERE DISABILITIES

This area allows teachers to serve learners with moderate to severe cognitive disabilities, which include mental disabilities, multiple disabilities, orthopedic impairment, autism, traumatic brain injury, and other health impairments.

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Introduction to Exceptional Learners/Special Education	3
Characteristics of Severe Disabilities	3
Methods/Procedures for Teaching Individuals with Moderate to Severe Disabilities	3
Behavior Management	3
Language/Communication Skills for Exceptional Children	3
Assessment of Exceptional Learners	3
Practicum in Instruction for Students with Severe Disabilities*	3

*Practicum may be waived based on two years' successful experience teaching severe disabilities.

I. SPEECH LANGUAGE THERAPIST

(Included in Regulation 43-64 under Requirements for Certification at the Advanced Level)

IV. CAREER AND TECHNOLOGY ADD-ON CERTIFICATION

The following areas are included:

- A. Agriculture
- B. Business and Marketing Technology
- C. Computer Programming
- D. Family and Consumer Science
- E. Industrial Technology

A. AGRICULTURE

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
(a) Agriculture	
Plant sciences (including agronomy, horticulture, and/or forest)	15
Animal sciences (including dairy or poultry)	6
Agricultural engineering (mechanization)	6
Agricultural economics	6
Agricultural sciences electives	18
(b) One specific Agricultural Education field	
Agricultural mechanics	18
Animal science	18
Environmental science and natural resources	18
Forestry	18
Horticulture	18
Agriculture sciences electives (required for each of the five required Agricultural Education fields)	6

B. BUSINESS AND MARKETING TECHNOLOGY

- 1. Bachelor's degree
- 2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
- 3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Accounting	6
Business Communications	3
Business Law	
Computer applications and technology (to include, but not be limited to: word processing, spreadsheets, database management, and Web publishing//multimedia)	9
Economics	3
Entrepreneurship	3
Hospitality, Tourism or Hotel/Motel Management	3

38 FINAL REGULATIONS

International Business	3
Management	3
Marketing	3
Instructional Methods for Teaching Business, Marketing, Computer Technology	3

C. COMPUTER PROGRAMMING (for Career and Technology Education programming courses)

1. Bachelor's degree
2. Initial or professional certificate at the secondary level in any subject area.
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Computer programming (any combination of currently relevant language(s) being used in business)	9

Note: Programming courses completed at the post secondary level within the past five years may be counted toward this endorsement.

D. FAMILY AND CONSUMER SCIENCE

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education

4. Specialized Preparation	Semester Hours
Child Development or Human Growth and Development	3
Computer Technology or Introduction to Computer	3
Consumer Economics and Resource Management	3
Curriculum and Evaluation in Family and Consumer Sciences (FCS) or Instructional Strategies	3
Food Science or Food Composition	3
General Chemistry and Lab or Chemical Sciences and Law	4
Housing: Design and Environment or Residential Technology	3
Human Sexuality	3
Introduction to the Exceptional Child or Introduction to Special Education	3
Marriage and Family Relations or Education for Parenthood	3
Professional Foundations of Family and Consumer Sciences	3

OR

The Professional and the Family Advanced Child Care and
Family Relations

One of the following courses	3
Human Nutrition	
Meal Management	
Nutrition and Food	
Quality Food Production	

One of the following courses	3
Clothing Design and Construction	
Contemporary Aspects of Clothing	
Creative Apparel Design	
Essentials of Textiles	

E. INDUSTRIAL TECHNOLOGY

1. Bachelor's degree
2. Initial or professional certificate at the early childhood, elementary, middle, secondary, or pre-K-12 level
3. Minimum qualifying score(s) on the content-area examination(s) required by the State Board of Education
4. Specialized Preparation

	Semester Hours
Transportation	6
Communication	6
Manufacturing	6
Construction	6
Computer Assisted Drafting (CAD)	3
New and emerging areas of technology such as bio-related technology, computer technology, and designing and problem solving	9

V. OTHER TYPES OF SPECIALIZED CERTIFICATION

The following areas are included:

- A. Adjunct Instructor
- B. Fine Arts
- C. Montessori
- D. Online Teaching

A. ADJUNCT INSTRUCTOR

Eligibility Requirements

1. The individual must have earned a bachelor's degree or higher from a regionally accredited college or university, and
2. A school district in the state must be willing to employ the individual as a teacher on a part-time basis in a content field at the middle or secondary school level, or in the related arts or physical education at the elementary level.

Application Requirements

3. The applicant must
 - (a) complete the application process for South Carolina educator certification, including an all-clear fingerprint review;
 - (b) have earned a bachelor's degree or higher with a major in the field of certification, or must submit passing scores on the content certification exam(s) required for the certification area; and
 - (c) submit verification of five years of occupational experience within the past ten years in, or related to, the content field of the certificate for which the individual is applying; and
4. The school district seeking to employ the individual must provide the following documentation to the Office of Educator Certification:
 - (a) a request and justification for employment of the instructor,
 - (b) an assurance that the employment of this instructor will not displace a certified teacher already employed, and
 - (c) an assurance that the adjunct instructor's teaching assignment will be less than a .5 full-time equivalent position and will not exceed two credit-bearing courses in an academic year.

Stipulations

The following stipulations apply to the South Carolina Adjunct Teaching Certificate:

5. The Adjunct Teaching Certificate is valid only in the sponsoring school district and is not transferrable to any other school district or state.

40 FINAL REGULATIONS

6. The adjunct instructor must be assigned a state-certified mentor in the same general subject area(s) in which the instructor is assigned to teach.

7. The adjunct instructor must be evaluated annually by the school district and must receive successful performance reviews for the certificate to be reissued for subsequent years at the request of the sponsoring school district.

8. The adjunct instructor must complete a minimum of 20 contact hours of professional development approved by the employing school district each three-year period the certificate is held.

9. The salary for the adjunct instructor will be determined by the employing school district.

B. FINE ARTS

1. Teachers for advanced fine arts programs who do not meet the requirements for certification in any existing area of certification will be issued an initial teaching certification if all of the following requirements are met:

(a) The school district has in operation an advanced program in the fine arts that has been approved by the South Carolina Department of Education.

(b) The school district superintendent requests certification for the prospective teacher in writing, describing the situation in which the teacher will work and the exact nature of the proposed duties of the teacher.

(c) The candidate has earned an undergraduate or graduate degree in fine arts from a nationally or regionally accredited institution of higher education or an institution that has programs approved for teacher education by the State Board of Education in the area of the fine arts that the teacher is to teach.

(d) The candidate presents evidence of at least two years of successful professional experience in the area of the fine arts that he or she is expected to teach.

(e) The candidate presents an acceptable score(s) on the required teaching content-area examination(s).

2. The initial certificate in Fine Arts will be issued for three years. It can be renewed in accordance with Regulation 43-53.I.A. A total of twelve (12) semester hours of credit, which includes teaching methods and psychology of learning in graduate professional education, will be required for professional certification.

3. In addition to the graduate professional education requirement specified above, the initial certificate will be converted to the professional certificate upon successful completion of induction requirements, ADEPT, and the pedagogy examination required by the State Board of Education.

C. MONTESSORI

1. Levels of Montessori Certification

Primary (3K–5K)

Elementary I (Grades 1–3)

Elementary II (Grades 4–6)

Middle (Grades 6–8)

2. Individuals who wish to add Montessori to an existing certificate must meet the following requirements.

(a) Bachelor's degree

(b) Initial or professional certificate at the appropriate level (early childhood, elementary, middle, or preK–12 level *)

(c) Completion of a training program at the appropriate level accredited by the Montessori Accreditation Council for Teacher Education (MACTE)

*A minimum qualifying score on the content area examination(s) required by the State Board of Education for early childhood, elementary, or middle level certification is also required for individuals with a prerequisite certificate in a preK–12 field who wish to add the appropriate Montessori level.

3. Individuals who wish to qualify for initial Montessori certification must complete a State Board of Education–approved undergraduate or graduate teacher preparation program in early childhood, elementary, or middle-level with a Montessori emphasis (i.e., includes all requirements for a MACTE training program) AND submit passing scores on the certification examinations approved by the State Board of Education at the appropriate level.

OR

4. Verify completion of a bachelor's degree, a MACTE-approved training program, and passing scores on the appropriate certification examination(s) approved by the State Board of Education, including the pedagogy exam. Additional certification fields may not be added to an initial Montessori certificate under this option unless the educator completes a State Board of Education–approved teacher preparation program in the additional field.

D. ONLINE TEACHING

This is an optional add-on certification that is intended to enhance an educator's skills and knowledge beyond that required for traditional teaching and to prepare the individual to teach classes within an online environment.

Individuals who wish to add Online Teaching to an existing certificate must meet the following requirements.

1. Bachelor's degree
2. Initial or professional certificate at the middle, secondary, or pre-K–12 level
3. Minimum qualifying score(s) on the content area examination(s) required by the State Board of Education
4. Specialized Preparation (required courses)*

	Semester Hours
Facilitating Online Courses Effectively	3
Effective Online Course Management	3
5. Elective Courses (select two courses from the list below)*

Approaches and Tools for Developing Web-Enhanced Lessons	2
Classroom Assessment Enhanced by Technology	2
Differentiating Instruction to Accommodate Learning Styles	2
Using Digital Portfolios to Foster Student Learning	2
Learning and Teaching with Web 2.0 Tools	2
South Carolina Online Resources	2

Waiver Provisions

Coursework listed above may be waived and certification in Online Teaching granted for teachers who have successfully taught three online courses through an accredited educational institution or professional development program within three years of application (URL or access to current online courses required).

*All coursework listed above will be offered online by the South Carolina Department of Education (SCDE) for graduate credit in conjunction with selected colleges or universities. Additional course options may be added as needed by the SCDE.

Fiscal Impact Statement:

There will be no increased costs to the state or its political subdivisions.

Statement of Rationale:

The amendments to this regulation are needed to create a new add-on certification in Early Childhood Special Education and revise current add-on requirements for Visual Impairment.

42 FINAL REGULATIONS

Document No. 4158
STATE BOARD OF EDUCATION
CHAPTER 43

Statutory Authority: 1976 Code Sections 59-5-60 (2004) and 59-25-110 (2004)

43-64. Requirements for Certification at the Advanced Level

Synopsis:

This regulation needs to be amended to provide an alternative pathway to the principal's certification. South Carolina currently provides an alternative pathway to a teaching certificate, as well as an alternative route to the superintendent's certification. National trends in federal programs and grants (such as the State Fiscal Stabilization Fund, Race to the Top, and the upcoming reauthorization of ESEA) also encourage states to support an alternative pathway to the principal's certification specifically for career changers. Because of adding the alternative route to the principalship, tiers of certification must be added to both the traditional and the alternative routes to delineate between initial and professional certification. In addition, Regulation 43-64 needs to be amended to add clarification regarding the alternative route for superintendents. The Notice of Drafting was published in the *State Register* on July 23, 2010.

Instructions: The following section of Regulation 43-64 is modified as provided below. All other items and sections remain unchanged.

Text:

I. ADMINISTRATION

A. Elementary School Principal and Supervisor (Tier 1)

1. Master's degree
2. Valid South Carolina Educator's Professional Certificate at the elementary level
3. Minimum qualifying score(s) on the area examinations required by the State Board of Education
4. Verification of three years teaching experience, including at least one year of teaching in grades

pre K-8

5. Completion of an advanced program approved by the State Board of Education for the training of elementary principals and supervisors

Note: Eligibility for Tier 2 certification requires successful completion of the Principal Induction Program (PIP) in the principal's first year, as well as an overall rating of Proficient or Exemplary on the Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP) evaluation instrument in the second year of employment as a principal.

B. Secondary School Principal and Supervisor (Tier 1)

1. Master's degree
2. Valid South Carolina Professional Certificate at the secondary level
3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
4. Verification of three years' teaching experience, including at least one year of teaching in grades

7-12

5. Completion of an advanced program approved by the State Board of Education for the training of secondary principals and supervisors

Note: Eligibility for Tier 2 certification requires successful completion of the Principal Induction Program (PIP) in the principal's first year, as well as an overall rating of Proficient or Exemplary on the Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP) evaluation instrument in the second year of employment as a principal.

C. Elementary or Secondary School Principal or Supervisor (Tier 1 Alternative Route for Career Changers—beginning July 1, 2012)

1. Master's degree

2. Verification of at least three years of successful experience in leadership, supervision, upper-level management, or other position in a business, corporation, agency, or the military with responsibilities similar to those of a principal

3. Recommendation for elementary or secondary principal certification (Tier 1 Alternative Route for Career Changers) by the superintendent of a South Carolina public school district interested in employing the individual as an assistant principal

4. Elementary or Secondary Principal Certification (Tier 1 Alternative Route for Career Changers.) A one-year certificate that may be extended annually provided that the following requirements are met:

(a) Year One: At the end of this year, the South Carolina Department of Education must receive verification that the educator has completed a full year of experience as an assistant principal in a public school, has received a passing score on the area examination(s) required for certification of principals by the State Board of Education, and has received a successful rating on an SCDE-approved evaluation instrument from the employing school district. Additionally, the employing school district must submit a written request for a one-year extension of the educator's elementary or secondary principal certificate (Tier 1 Alternative Route for Career Changers).

(b) Years Two and Three: At the end of each of these years, the South Carolina Department of Education must receive verification that the educator has completed a full year of experience as an assistant principal in a public school and has received a successful rating on an SCDE-approved evaluation instrument from the employing school district. At the end of each year, the employing school district must submit a written request for a one-year extension to the educator's elementary or secondary principal certificate (Tier 1 Alternative Route for Career Changers). Also, by the end of Year Three, the educator must have successfully completed the program of study (i.e., training program) approved by the State Board of Education in order to be eligible for continued certificate extensions.

(c) Years Four and beyond. Upon meeting the requirements for Years One through Three, as described above, the educator is eligible for a professional Tier 1 certificate and employment as an assistant principal or as a principal.

5. Elementary or Secondary Principal Certificate (Tier 2). In order to be eligible to advance to an elementary or secondary principal certificate (Tier 2), the educator must have successfully completed all requirements as an assistant principal for Years One, Two, and Three, as described above. Additionally, the educator must successfully complete the Principal Induction Program, receive an overall rating of *Proficient* or *Exemplary* on the Program for Assisting, Developing, and Evaluating Principal Performance (PADEPP) evaluation instrument in the second year of employment as a principal, and receive a recommendation for certificate advancement from the employing school district. If the overall rating on the PADEPP evaluation instrument in the second year of employment as a principal is *Needs Improvement*, the principal will remain on Tier 1 certification until the South Carolina Department of Education receives verification from the employing school district that the principal has achieved an overall rating of *Proficient* or *Exemplary* on PADEPP.

D. District Superintendent

1. Master's degree
2. Valid South Carolina Professional Certificate at the elementary, middle, or secondary level
3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
4. Verification of a total of three years experience as a pre K-12 or postsecondary teacher and two years as a school or school district administrator, postsecondary administrator, or school business administrator
5. Completion of an advanced program approved by the State Board of Education for the training of school superintendents

E. District Superintendent (Alternative Route for Career Changers)

1. Master's degree
2. Verification of at least ten years of successful experience in a senior position(s) of leadership, such as Chief Executive Officer in a business, corporation or agency, military officer, or other position with responsibilities similar to those of a district superintendent.
3. Recommendation for certification by a local school board in a South Carolina public school district interested in employing the individual as a superintendent.

44 FINAL REGULATIONS

4. Submission of a plan of study by the local school board that the individual must complete within three years to include, at a minimum, the areas of curriculum and instruction, school finance, and school law. The candidate must also submit a passing score on area examination(s) required by the State Board of Education for district superintendents within the first year of employment as a superintendent.

5. Issuance of an initial certificate for one year. This certificate may be extended annually for two additional years at the request of the local school board based on verification of successful performance reviews.

6. Issuance of a professional certificate upon completion of the specified program of study, and minimum qualifying scores on the required certification examination(s), and the recommendation by the local school board after three years of successful service as superintendent.

F. Vocational/Technology/Career Center Director

1. Valid South Carolina secondary principal or supervisor certificate and certification in one of the following areas:

- Agriculture
- Family and Consumer Sciences
- Health Occupations
- Industrial Technology
- Business and Marketing Technology
- Career Technology Education

OR

2. Valid South Carolina secondary principal or supervisor certificate and three years of experience as a director or assistant director in a Vocational/Technology/Career Center

OR

3. Master's degree from a State Board of Education approved teacher education program in vocational education, including fifteen semester hours in administration and certification in one of the following areas:

- Agriculture
- Family and Consumer Sciences
- Health Occupations
- Industrial Technology
- Business and Marketing Technology
- Career and Technology Education

The fifteen semester hours in administration required above are to be selected from the areas listed below:

- General School Administration
- School Personnel Administration
- Techniques of Supervision
- School Law
- School Finance
- Human Growth and Development
- Curriculum Development

AND

4. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

5. Verification of five years experience as a pre K-12 or postsecondary teacher, school or school district administrator, postsecondary administrator, or business administrator

II. OTHER INSTRUCTIONAL SUPPORT AREAS

A. ELEMENTARY AND SECONDARY GUIDANCE

1. Master's degree

2. Completion of an advanced program approved by the State Board of Education for the preparation of school counselors

3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

B. SCHOOL PSYCHOLOGIST

1. SCHOOL PSYCHOLOGIST I

(a) Master's degree

- (b) Completion of an advanced program approved by the State Board of Education for the preparation of school psychologists
- (c) Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
- 2. SCHOOL PSYCHOLOGIST II
 - (a) Specialist degree
 - (b) Completion of an advanced program approved by the State Board of Education for the preparation of school psychologists
 - (c) Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
- 3. SCHOOL PSYCHOLOGIST III
 - (a) Doctorate degree
 - (b) Completion of an advanced program approved by the State Board of Education for the preparation of school psychologists
 - (c) Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
- C. SPEECH LANGUAGE THERAPIST
 - 1. Master's degree
 - 2. Completion of an advanced program approved by the State Board of Education for the preparation of speech language therapists
 - 3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education
- D. MEDIA SPECIALIST
 - 1. Master's degree
 - 2. Completion of an advanced program approved by the State Board of Education for the preparation of media specialists or school library media specialists
 - 3. Minimum qualifying score(s) on the area examination(s) required by the State Board of Education

Fiscal Impact Statement:

Additional costs will be incurred to provide the training for the alternative principals' certification program.

Statement of Rationale:

The amendments to this regulation are needed to provide an alternative pathway to the principal's certification. South Carolina currently provides an alternative pathway to a teaching certificate, as well as an alternative route to the superintendent's certification. National trends in federal programs and grants (such as the State Fiscal Stabilization Fund, Race to the Top, and the upcoming reauthorization of ESEA) also encourage states to support an alternative pathway to the principal's certification specifically for career changers. Because of adding the alternative route to the principalship, tiers of certification must be added to both the traditional and the alternative routes to delineate between initial and professional certification. In addition, Regulation 43-64 needs to be amended to add clarification regarding the alternative route for superintendents.

46 FINAL REGULATIONS

Document No. 4169
DEPARTMENT OF EMPLOYMENT AND WORKFORCE
CHAPTER 47
Statutory Authority: 1976 Code Section 41-29-130

47-1. Cash Value of Certain Remunerations
47-3. Definitions

Synopsis:

The Department of Employment and Workforce of South Carolina (Department) proposes to amend existing regulations revising and expanding the definition of certain non-cash remunerations as well as adding regulations defining terms associated with “compelling family circumstances” in regards to eligibility for unemployment benefits. The proposed regulations were previously published in the *State Register* on December 24, 2010, and the Department held a public hearing regarding the proposed regulations on Friday, January 28, 2011. The Notice of Drafting was published in the *State Register* on November 26, 2010.

Instructions:

The regulations are modified as provided below. All other items and sections remain unchanged.

Text:

47-1. Cash value of Certain Remunerations.

A. The South Carolina unemployment Law, provides in Section 41-27-380, that "Wages means all remuneration paid for personal services, including commissions and bonuses and the cash value of all the remuneration paid in any medium other than cash ... The reasonable cash value of remuneration paid in any medium other than cash ... shall be estimated and determined in accordance with rules prescribed by the Department."

B. The Department accordingly prescribes that:

1. If board, lodging, bartered services, or any other payment in kind considered as payment for services performed by a worker, is in addition to or in lieu of (rather than a deduction from) money or wages, the Department shall determine or approve the cash value of such payment in kind, and the employer shall use these cash values in computing contributions due under the law.

2. Where cash value of board and lodging furnished a worker is agreed upon in the contract of hire the amount so agreed upon shall, if more than the rate prescribed herein, be deemed to be the value of such board and lodging, subject to review by the Department. Until and unless in a given case the rate for board and lodging is determined by the Department, board and lodging furnished in addition to and in lieu of money wages shall be deemed as follows:

a. Meal rates as established by the Budget and Control Board.

b. Lodging rates as determined reasonable by the Department.

3. The cash value of bartered services shall be determined by the applicable prevailing wage published by the United States Department of Labor, state government entities, employment and trade publications, as deemed appropriate by the Department.

4. In the absence of employer records the Department may use prevailing wage information published by the United States Department of Labor, state government entities, employment and trade publications, and similar sources to determine the monetary value of services performed by a worker.

47-3. Definitions.

- A. Spouse is defined as a legally married husband or wife.
- B. Parent is defined as a father or mother to include a step parent or legal guardian.
- C. Child is defined to include any individual for whom the claimant is a legal guardian.
- D. Reasonable commuting distance is defined as fifty (50) miles or less from the claimant's new residence address to the claimant's old employment address.
- E. Part-time is defined as twenty-nine (29) hours or less of work per week.
- F. If the majority of the weeks of work in an individual's base period includes part-time work, the individual shall not be denied unemployment benefits under any provisions of this act relating to availability for work, active search for work, or failure to accept work, solely because the individual is seeking only part-time work. For the purposes of this section, majority is defined as fifty-one percent (51%) or more of the weeks of work during the individual's base period. When seeking part-time work, the individual claiming unemployment benefits must be available for a number of hours per week that are comparable to the individual's part-time work experience from his/her most recent part-time employment.

Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Rationale:

The purpose of amending and proposing Regulations 47-1 and 47-3 is to create uniformity and delete ambiguity in the Department's regulations. The proposed regulations bring the Department's regulations into conformity with legislative changes passed in the 2010 session. There was no scientific or technical basis relied upon in the development of this regulation.

48 FINAL REGULATIONS

Document No. 4170

DEPARTMENT OF EMPLOYMENT AND WORKFORCE

CHAPTER 47

Statutory Authority: 1976 Code Sections 41-29-130 and 41-31-310

- 47-4. Employer Legal Entity Classification
- 47-5. Delinquent Reports
- 47-6. Benefit Ratio
- 47-7. Interest Surcharge
- 47-8. Employer-Employee Relationship
- 47-15. Reports and Instructions Relative to Report Form
- 47-17. Information to Be Furnished with Respect to Changes in Ownership, Notification of Acquisitions, and Methods for the Transfer of Experience Rating Reserve Accounts
- 47-19. Separation Notices
- 47-23. Offers of Work
- 47-28. Military Services
- 47-36. Review of Rulings with Respect to the Status, Liability, and Rate of Contributions of an Employer or Employing Unit
- 47-39. Joint Account
- 47-41. Bonding Requirements for Certain Nonprofit Organizations
- 47-46. "National Indicator" for Extended Benefits
- 47-47. "State Indicator" for Extended Benefits

Synopsis:

The Department of Employment and Workforce of South Carolina (Department) proposes to amend existing regulations to bring them into compliance with legislative changes made in the General Assembly during the 2010 session. Additionally it seeks to add definitions associated with the legislative reforms. The proposed regulations were previously published in the *State Register* on December 24, 2010, and the Department held a public hearing regarding the proposed regulations on Friday, January 28, 2011. The Notice of Drafting was published in the *State Register* on November 26, 2010.

Instructions:

The regulations are modified as provided below. All other items and sections remain unchanged. Delete Sections 47-46 and 47-47.

Text:

47-4. Employer Legal Entity Classification.

For the purposes of assigning a legal entity classification to an employing unit, the Department will follow the legal entity classification assigned to the employing unit by the Internal Revenue Service. In the event the employing unit has not been formally notified by the Internal Revenue Service of its legal entity classification, the Department will assign a legal entity classification to the employing unit based on the characteristics of the employing unit.

47-5. Delinquent Report.

If on the rate computation date an employing unit failed to submit contribution and wage reports for any period within the last twelve calendar quarters that was inclusive in the rate computation period in which the employer was determined liable under the South Carolina Department of Employment and Workforce Laws,

the missing report shall be classified as delinquent for the purpose of experience tax rate calculation and tax rate assignment.

47-6. Benefit Ratio for Zero Taxable Wages.

A. If on the rate computation date the employer has zero benefit charges and zero taxable wages for the rate computation period 2011, the employer will be assigned to tax class twelve.

B. If on the rate computation date the employer has benefit charges but zero taxable wages for the rate computation period 2011, the employer will be assigned to tax class thirteen.

C. If on the rate computation date there are zero taxable wages and zero benefit charges during the rate computation period when computing the 2012 and subsequent tax year's benefit ratio, the employer will be assigned the prior year's tax class. If the employer does not have a prior year tax class, the employer will be assigned tax class twelve.

D. If on the rate computation date the employer has benefit charges and zero taxable wages during the rate computation period when computing the 2012 and subsequent tax year's benefit ratio, the employer will be assigned to the prior year's tax class. If the employer does not have a prior year tax class, the employer will be assigned tax class thirteen.

47-7. Interest Surcharge.

All contributory employers, including governmental entities and non-profit 501(c)(3) employers who have not elected to reimburse the Department under Section 41-31-620, are required to pay the interest surcharge in effect for a tax year. The interest surcharge effective for the applicable tax year will appear on the employer's annual rate notice and quarterly contribution report in combination with the Departmental Administrative Contingency Assessment (DACA). Certain employers are exempt from DACA per Section 41-27-410.

47-8. Employer-Employee Relationship.

The South Carolina Department of Employment and Workforce has autonomy in its determination as to whether an employer-employee relationship exists among parties. While the Department is not bound by the rulings of other entities, principally the Internal Revenue Service and the South Carolina Department of Revenue, it may consider in its determinations rules, regulations, opinions, laws, and interpretations published by the United States Department of Labor, Internal Revenue Service, South Carolina Wage and Hour Division, and State and Federal Court decisions for the purpose of determining whether an employer-employee relationship exists for the purpose of determining liability under the South Carolina Department of Employment and Workforce Laws.

47-15. Reports and Instructions Relative to Report Form.

A. Each employing unit shall make such reports as are prescribed by the Department on forms issued by and required to be returned to the Department or its authorized representative.

B. Each employing unit shall comply with instructions pertaining to the contents and due date of any report form issued by the Department. Such instructions shall have the full force and effect of regulations when published.

C. Reports Covering Wages of Individuals in Employment:
Except as otherwise provided, each employer shall submit on or before the last day of the first month following the quarter covered by such report, a form report showing each individual in his employment during the preceding quarter. The form shall set forth:

50 FINAL REGULATIONS

1. The employer's name and account number assigned by the Department.
2. The worker's full name.
3. The worker's social security account number.
4. Total wages paid to the worker during the quarter.
5. Such other information as required by the form.

D. Where employing units have failed to make reports previously required and similar information is now required on a different basis, the Department may allow such delinquent reports to be filed showing only such information as is now necessary; provided however, nothing herein shall be construed as relieving such delinquent employing unit from any penalty or liability for previous failure to file such report at the time previously required.

47-17. Information to Be Furnished with Respect to Changes in Ownership, Notification of Acquisitions, and Methods for the Transfer of Experience Rating.

A. Notification to Department of discontinuance of business and changes of ownership for purposes of status determination and experience rating succession.

1. Any employer who discontinues business shall give notice to the Department in writing. This notice shall include the exact date of such discontinuance and shall be submitted promptly and must not be made later than thirty (30) calendar days after the date of discontinuance.

2. Any employer who by any means transfers substantially all (95 per cent or more) of its business or assets thereof to another shall notify the Department in writing. This notice shall be submitted promptly and must not be made later than thirty (30) calendar days after the date of transfer and shall include the date on which the transfer occurred, together with the name and physical and/or mailing address of the employing unit to whom the transfer was made.

3. Any employer who by any means transfers a portion of its business to another shall notify the Department in writing. This notice shall be submitted promptly and must not be made later than thirty (30) calendar days after the date of transfer and shall include the date on which the transfer occurred, together with the name and physical and/or mailing address of the employing unit to whom the transfer was made. The Department shall be informed as to the nature and extent of each such partial transfer with particular reference to the description or identification of the part of the business transferred, together with a notation as to the proportion of the total business thus transferred.

4. Each employing unit which by any means acquires all or a portion of the business, or assets thereof, of any employer, or which has acquired its own business, or all of the assets thereof, from another, which at the time of such acquisition was an employer subject to the Act, shall notify the Department in writing promptly and must not be made later than thirty (30) calendar days after such acquisition occurred. This notice shall be in such form as to include:

- a. From whom acquired.
- b. The exact date of acquisition.
- c. The portion of the business or assets of the predecessor acquired by the successor.

d. Whether acquirer is an individual, partnership, corporation, or a derivative thereof. If a partnership, the name, address and legal domicile of each partner must appear.

5. In the event of any change of form of organization between, to or from a corporation to a partnership or individual ownership; from partnership to corporation or individual ownership; or from individual ownership to partnership or corporation, notice of such change and the date thereof shall be made to the Department by the successor organization within thirty (30) calendar days after such change.

6. The employer, if a corporation, shall notify the Department of any change of name, forfeiture, or cancellations of charter, reincorporation, merger or consolidation, or any other change in corporate entity promptly and must not be made later than thirty (30) calendar days after such action.

7. The employer, if a partnership, shall notify the Department of any change in the partnership by reason of any person ceasing to be or becoming a partner, and shall report the name of any such person and the date that he or she ceased to be or became a partner not later than thirty (30) calendar days after such occurrence.

8. Employers shall promptly notify the Department in the event of consolidation, dissolution, receivership, insolvency, bankruptcy, composition, assignment for the benefit of creditors, or similar proceedings not later than thirty (30) calendar days after such proceeding.

B. Total Transfer of Experience Rating Where Substantially All (95 per cent or more) of a Business, or the Assets Thereof, Have Been Transferred to Another Employer.

1. Both the transferring employer and the acquiring employer shall comply with paragraphs A.2 and A.4 of this regulation and shall furnish such additional information as may thereafter be requested by the Department.

2. The acquiring employer may expedite the total transfer to it of the experience of the transferring employer by making application therefore by letter or on such forms as the Department may furnish. Such application should be filed with the Department promptly and in no case later than thirty (30) calendar days after the succession occurred.

3. The Department shall upon its own initiative transfer the experience of the transferring employer to the acquiring employer whenever the Department ascertains that there has been a transfer of substantially all of a business, or assets thereof, inasmuch as a total transfer of the experience rating under such a condition is required by law.

C. Partial Transfer of Experience Rating Where a Portion of a Business Has Been Transferred to Another Employer.

1. Both the transferring employer and the acquiring employer shall comply with paragraphs A.3 and A.4 of this regulation and shall furnish such additional information as may thereafter be requested by the Department.

2. The transferring employer may request by letter or by such forms as the Department may furnish that the portion of its experience rating which is attributable solely to the portion of the business acquired by the acquiring employer be transferred to the acquiring employer. Such request should be filed promptly and must not be made later than thirty (30) calendar days after the succession occurred.

a. The acquiring employer may request by letter or by such forms as the Department may furnish that the portion of the experience of the transferring employer which is attributable solely to the portion of the business acquired be transferred to the acquiring employer. Such request should be filed promptly and must not be made later than thirty (30) calendar days after the succession occurred.

52 FINAL REGULATIONS

3. Upon receiving the request from both the transferring and acquiring employers for the transfer of the portion of the experience of the transferring employer attributable solely to the portion of the business acquired by the acquiring employer, the Department shall require that the transferring employer supply the Department with the applicable percentage(s), and if necessary, any taxable wages that are to be used in determining the part of the experience to be transferred.

4. The Benefit Experience Record shall be transferred from the predecessor to the successor as follows:

a. The payroll (taxable wages) for the quarters used in the rate computation period(s).

b. The benefits charged to the predecessor's experience rating for the quarters used in the rate computation period(s).

5. In the event that a separate subsidiary experience rating account has been maintained by the Department with respect to the distinct and severable portion of the business transferred for the entire period of the operation of such portion, Sub-Items C.3 and C.4, above, will not apply. The benefits charged and total payroll (taxable wages) appearing on such subsidiary account, together with those Items entered on that account from the preceding June 30th up to the date of the partial transfer of business will be transferred from the experience rating of the predecessor (transferring) employer to the experience rating of the acquiring employer. Attention is directed to Sections 41-31-100 through 41-31-120 of the South Carolina unemployment Law as to the conditions under which total or partial transfer of experience rating can take place and as to the provisions for rate computations upon such transfer. The law directs that no partial transfer of experience may be made unless requests are submitted to the Department by both the transferring and the acquiring employers.

47-19. Separation Notices.

A. Notice of Filing:

1. A copy of each initial or additional claim filed by a worker will be mailed by his local office to his last employer regardless as to whether the latter is liable or non-labile under the Act.

2. The employer will fill in the information called for on the back of the copy of the initial claim form received by him and return the same to the address of the office shown thereon so as to reach such office no later than the due date established in South Carolina Code Section 41-35-615.

3. A liable employer other than the last separating employer may be sent a form UCB-214, Request to Employer for Separation Information. This form requests separation information concerning the former worker. The employer shall furnish separation information on Form UCB-214 so that it will reach the office of the Department not later than ten (10) calendar days from the date such form is mailed to him by the Department.

4. A failure to respond in a timely fashion as set forth in A2 and A3 may result in the separation information not being considered in rendering an initial determination on the claim.

B. Mass Separations:

1. The term "mass separation" means a separation (permanently, or for an indefinite period), of ten or more workers employed in a single establishment at or about the same time and for the same reason; provided however, that the term "mass separation" shall not apply to separations for regular vacation periods as defined in the Act and approved by the Department.

2. In cases of mass separations the employer, shall, for each individual affected, file with the office nearest the worker's place of employment, or with such office nearest employee's residence. Form UCB-113, setting forth such information as is required thereby; such form shall be filed not later than ten (10) calendar days, exclusive of Sundays and holidays, after such separation.

C. Notice of Unemployment Due to a Labor Dispute:

1. In all cases of unemployment due to a labor dispute the employer shall follow the procedure set forth in 47-21(D).

D. In all cases of initial claims, additional claims or requests for reinstatement of benefits, where a claimant has been separated from the employ of a non-labile employer, the last covered (liable) employer by whom the claimant was employed will be requested to furnish information relative to the separation of the claimant from employment with such covered (liable) employer or as to any offer of work made to the claimant by such covered (liable) employer in accordance with 47-23 of these regulations subsequent to the separation of the claimant from the employ of such covered (liable) employer. Separation information must be maintained by employers in accordance with 47-14 (A)(2)(e) of these regulations.

47-23. Offers of Work.

A. Section 41-35-120(5) directs that a claimant may be disqualified from the receipt of benefits should he fail without good cause to apply for available suitable work, when so directed by the employment office or the Department; or should he refuse to accept available work when offered him by the employment office or the employer; or should he decline to return to his customary self-employment (if any) when so directed by the Department.

B. A written offer of work made directly by an employer shall set out the nature of the work offered, the probable wages and hours per week, the shift or daily hours of the proposed employment, the expected duration of employment, the time and place the claimant should report, and the name of the person to whom he is to report. No disqualification will be imposed by reason of the failure of a claimant without good cause to accept a direct offer of available and suitable work unless the employer submits a copy of such an offer to the Department together with a certification that it was either received and refused by the claimant, or that it was directed by registered or certified mail to the last known address of the claimant and that no response was made by the claimant; Provided, however, that no direct offer of work made in accordance with this regulation shall be considered unless a notice of such offer of work is received by the Department.

C. An oral offer of work may be made directly by an employer but before a claimant shall be disqualified to receive benefits by reason of his failure to accept, without good cause, available suitable work so offered, a sworn statement shall be submitted by the employer to the Department setting forth that the offer of work was made directly to the claimant, the nature of the work offered, the wages and hours per week, the shift or daily hours of the proposed employment, the expected duration of the employment, the time and place the claimant should have reported for duty, and any reason given by the claimant for his refusal to accept the work; Provided, however, that no direct offer of work made in accordance with this regulation shall be considered unless a notice of such offer of work is received by the Department.

47-28. Military Service.

A. This regulation shall apply only to those individuals who have volunteered or enlisted or who have been called into any branch of military service or any organization affiliated with the defense of the United States or the State of South Carolina.

B. The first benefit year following the termination of his military service shall be the one year period beginning the Sunday prior to the day of making a request for determination of insured status.

54 FINAL REGULATIONS

C. With respect to the benefit year as defined in Paragraph B hereof, the base period for such individual shall be the first four of the last five completed calendar quarters immediately prior to the filing of the claim or the last four of the last five completed calendar quarters if the individual does not qualify monetarily under the traditional base period. Military wages shall be assigned based on the requirements of Unemployment Compensation for Ex-Service members (UCX), Title XV of the Social Security Act.

D. Any individual, as provided for above, shall be ineligible for benefits for any week with respect to which or a part of which he has received or is seeking unemployment benefits under another unemployment compensation law of the United States.

E. All other provisions of the South Carolina unemployment Law not inconsistent with the above and foregoing provisions shall apply to the payment of claims for benefits filed hereunder.

47-36. Review of Rulings with Respect to the Status, Liability, and Rate Contributions of an Employer or Employing Unit.

A. At the request of an employing unit or employer or a field deputy, the Unemployment Insurance Tax Director or his designee shall make an administrative determination with respect to the status, liability, and rate of contributions applicable thereto, provided that such request is made within thirty (30) calendar days of the date of mailing of a proposed audit report, a liability notice, or a rate notice.

B. An administrative determination by the Unemployment Insurance Tax Director or his designee concerning the status, liability, or rate of contributions of an employing unit or employer (whether issued initially or in accordance with paragraph A, supra), will be reviewed by the Department upon the appeal of such employing unit or employer, PROVIDED:

1. The appeal be made in writing by an officer/owner of the business or an attorney and mailed or delivered to the Department not more than thirty (30) calendar days after the date of mailing of such administrative determination, and

2. The appeal contains a clear and concise statement of the reasons therefore.

C. The Department shall designate a hearing officer employed by it to conduct a hearing at a place convenient for the employing unit or employer concerned at which testimony shall be taken and evidence received in the matter.

1. Notice of the hearing shall be mailed by the hearing officer or deputy to the employing unit or employer, directed to its last known address, at least seven (7) calendar days prior to the date of the hearing. The notice shall state the time set for the hearing, together with a brief statement of the question or questions to be determined.

2. The hearing shall be conducted under the same procedure as that provided for the hearing of appeals of claims for benefits. Testimony will be recorded and exhibits will be received into evidence in the same manner. A record shall be prepared consisting of the pertinent ruling or rulings of the Unemployment Insurance Tax Director or his designee, the motion for review by the Department, a transcription of the testimony, and the documentary evidence and exhibits. This record will be reviewed by the hearing officer who will issue a decision.

3. An appeal of this decision may be made to the Appellate Panel, provided that it be made in writing by an officer/owner of the business or an attorney and mailed or delivered to the Department not more than thirty (30) calendar days after the date of mailing of such administrative ruling and contains a clear and concise statement of the reasons therefore.

D. The Appellate Panel shall give notice of at least seven (7) calendar days of a hearing to be held at its offices in Columbia for the purpose of receiving the oral or written arguments in the case. No further testimony or evidence will be received at this hearing and the Appellate Panel shall make its determination on the basis of the record submitted to it by the Appeals Hearing Officer. A written decision will be issued by the Appellate Panel setting forth its findings of fact and conclusions of law in affirmation, modification, or reversal of the administrative ruling or rulings presented for review.

47-39. Joint Account.

A. Two or more "employers" as defined in Section 41-27-200, South Carolina Code of Laws, 1976, as amended, in the same or a related trade, occupation, profession, or enterprise, or having a common financial interest, hereinafter referred to as an "Employer Group," may enter into an agreement with the Department to establish a joint experience rating account as provided in Section 41-31-20; subject to the provisions of Article 1 of Chapter 31 of Title 41 of the 1976 Code--Rates of Contribution; shall be treated as a separate employer account and subject to the following provisions:

1. A joint account may not be established for a period of less than five (5) years beginning with the first day of the calendar year in which such application for the establishment of such account is approved by the Department.

2. The contribution rate for an "employer group" shall be computed as of June 30 or December 31 based upon the date of approval by the Department. Approvals between January 1 and June 30 will be computed as of June 30; approvals between July 1 and December 31 will be computed as of December 31. This rate will be applicable for the subsequent tax year. Such computation shall be based upon the aggregate experience rating of all the members of the group for the applicable rate computation time period.

3. No "employer" may become a member of an "employer group" until such employer has satisfied the provision of Section 41-31-40 (twelve (12) months of accomplished liability).

4. Separate accounts shall be maintained for each employer in an "employer group" for identification, with such separate accounts being combined only for the purpose of establishing a joint experience rate.

5. No "employer group" shall have a reduced contribution rate when an execution for unpaid contributions is outstanding against one or more members of the "employer group."

6. If a member of an "employer group" acquires the business of an employer, the experience of the predecessor employer shall be transferred to the separate account of the acquiring employer. The provision of Section 41-31-100 or Section 41-31-110 as applicable shall apply to the "employer group" in accord with Sub-Item thereof.

7. All members of an "employer group" shall remain members until the dissolution thereof. This provision shall also apply to a successor who acquires the business of a member of an "employer group," provided however, if for any reason the business of a member of an "employer group" is discontinued, or if the liability of a member is terminated in accord with Chapter 37 of Title 41 of the 1976 Code, the experience in the account of the discontinued business shall remain a part of the experience of the "employer group" until the next rate computation.

8. An "employer group" may be dissolved and the joint account distributed in accord with Section 41-31-120 on the next regular computation date:

a. by 50 per cent or more of the employers in the "employer group" each of which has at least five (5) percent of the total wages on the date of the dissolution.

56 FINAL REGULATIONS

b. Each member of the "employer group" thus dissolved will be considered for the purposes of Section 41-31-120 as the successor to his own business and the employer group will be treated as the predecessor.

c. In the event the experience of any member of the "employer group" was retained as a part of the experience of the "employer group" upon the discontinuance of business or termination of liability in accord with Chapter 37 of Title 41 of the 1976 Code, the experience account of such an employer upon dissolution of the group:

- i. will be inactivated if the employer ceased to do business;
- ii. will be canceled if the employer terminated liability.

9. Each member of an "employer group" will be responsible for keeping the records and filing the reports required by the Department with respect to individuals in its employment. Every member of the "employer group" shall be liable individually or collectively for all past due penalties, contributions, and interest of any member and shall be subject to the provisions of Article 3 of Chapter 31 of Title 41 of the 1976 Code.

10. Benefits paid, chargeable to a member of an "employer group" shall be used in computing the experience rate of the "employer group;" however, only the employer to whom benefits are chargeable shall have the right of appeal in accord with the appeals provisions in Article 5 of Chapter 35 of Title 41 of the 1976 Code.

11. No provision in Section 41-31-20 or in this regulation issued pursuant thereto shall be construed as giving any member of an "employer group" any authority over the operation of another member with respect to the administration of the joint "employer group" account.

47-41. Bonding Requirements for Certain Nonprofit Organizations.

Any nonprofit organization or group of organizations which has become liable for payments of benefits in lieu of contributions and which does not possess title to real property and improvements within South Carolina valued in excess of two million dollars shall be required to post a surety bond, money deposit, or other securities with the Department to insure the payments in lieu of contributions. Such surety shall be filed with the State Treasurer in accordance with the requirements of that office. A determination relative to the value of real property and improvements of a nonprofit organization or group of organizations will be based on written information supplied by said organization certifying to the value. Such information or evidence shall be in the form of an audited financial statement or in other form acceptable to the Department.

The nonprofit organization or group of organizations shall be required to: (1) Post a money deposit; (2) Furnish an indemnity bond with a surety company authorized to do business within the State of South Carolina; or (3) In lieu of an indemnity bond, furnish U.S. Government bonds, obligations of the U.S. Government or obligations fully guaranteed both as to principal and interest by the U.S. Government; obligations of the Federal Intermediate Credit banks, Federal Home Loan banks, Federal National Mortgage Associations and banks for cooperatives and Federal Land banks; obligations of the State of South Carolina or any political subdivision thereof.

The amount of the surety bond, money deposit, securities, or other security shall be computed on the total wages paid by a nonprofit organization or group of organizations multiplied by the tax rate assigned to tax class 20. Total wages paid means wages as defined in Section 41-27-380 of the law for the four completed calendar quarters immediately preceding the effective date of the election, the renewal date in the case of a

bond, or the biennial anniversary of the effective date of election in the case of a deposit of money, whichever date shall be most recent and applicable. If the nonprofit organization did not pay wages in each of such four calendar quarters, the amount of the surety bond, cash deposit, securities, or other security shall be as determined by the Department.

Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Rationale:

The purpose of proposing Regulations 47-4 through 47-8, 47-15, 47-17, 47-19, 47-23, 47-28, 47-36, 47-39, and 47-41 is to create uniformity and delete ambiguity in the Department's regulations. The proposed regulations bring the Department's regulations into conformity with legislative changes passed in the 2010 session. There was no scientific or technical basis relied upon in the development of this regulation.

Document No. 4171

DEPARTMENT OF EMPLOYMENT AND WORKFORCE
CHAPTER 47

Statutory Authority: 1976 Code Sections 41-27-510, 41-29-130, 41-29-270, and 41-31-310

- 47-51. Appeals to the Appeal Tribunal
- 47-52. Appeals to the Appellate Panel
- 47-53. Issuance of Subpoenas
- 47-54. Orders for Supplying Information from the Records of the Agency
- 47-55. Representation before Appeal Tribunal and the Appellate Panel
- 47-56. Inspection of the Decisions of the Appeal Tribunals and the Appellate Panel
- 47-57. Appeal to the Courts

Synopsis:

The Department of Employment and Workforce of South Carolina (Department) proposes to amend existing regulations to bring them into compliance with legislative changes made in the General Assembly during the 2010 session. The proposed regulations were previously published in the *State Register* on December 24, 2010, and the Department held a public hearing regarding the proposed regulations on Friday, January 28, 2011. The Notice of Drafting was published in the *State Register* on November 26, 2010.

Instructions:

The regulations are modified as provided below. All other items and sections remain unchanged.

Text:

47-51. Appeals to Appeal Tribunal.

A. The Presentation of Appeals.

1. The party appealing from an initial determination of a claims adjudicator shall file at the office where the claim was filed or at the office of the Department in Columbia, South Carolina, a Notice of Appeal on the form provided, setting forth the information required thereon. Copies of the Notice of Appeal shall be mailed to the other interested parties to the initial determination of the examiner which is being appealed.

58 FINAL REGULATIONS

2. The party appealing from a determination of an adjudicator rendered subsequent to the issuance of an initial determination shall file a Notice of Appeal in like manner and place as is provided for appeal from an initial determination in Appeal Regulation 47-51, A.1 above, which shall be treated in the same manner as is therein provided.

3. The party appealing from a re-determination shall file Notice of Appeal as provided for in Appeal Regulation 47-51, A.1 above, which shall be treated in the same manner as an appeal from an initial determination: Provided That, where there is pending an appeal from an initial determination, such appeal, unless withdrawn, shall likewise constitute an appeal from such re-determination.

4. In cases where Section 41-35-120(6) is involved, and initial determination in the case has been made by a special examiner designated therefor by the Department, the party appealing from the initial determination of such special examiner shall file a Notice of Appeal in like manner as provided for in Appeal Regulation 47-51, A.1 above, which shall be treated in the manner prescribed in that Regulation.

5. Upon the scheduling of a hearing for an appeal, Notice of Hearing upon the form provided shall be mailed at least seven (7) calendar days prior to the date of hearing, specifying the place and time of hearing, and the hearing official, to all interested parties to the appealed claim.

6. No additional hearings shall be allowed on the same appeal before the Appeal Tribunal except those subject to Appeal Rules 47-51, D.1, 47-51, D.2 and 47-51, C.1-3.

B. Disqualification of Members of Appeal Tribunals.

No person shall serve on an Appeal Tribunal in the hearing of any appeal in which he is interested. Challenges to the interest of any person serving on an Appeal Tribunal may be heard and decided by the Appeal Tribunal, or in its discretion referred to the Appellate Panel.

C. Hearing of Appeals.

1. All Appeal Tribunal hearings shall be de novo in nature and conducted informally in conformity with the South Carolina Administrative Procedures Act and in such manner as to ascertain the substantial rights of the parties. The Appeal Tribunal shall include in the record and consider as evidence all records of the Agency that are material to the issues. All issues relevant to the appeal shall be considered and passed upon. Any party to the appeal may present such testimony as may be pertinent to the appeal. Where a party appears in person, the Tribunal shall examine and cross-examine such party and his witnesses, and may examine and cross-examine the witnesses of any opposing party. The Appeal Tribunal with or without notice to any of the parties, may take such additional evidence at the hearing as it deems necessary. After a hearing and prior to actually rendering the decision, the Appeal Tribunal with notice to the interested parties as provided for in Appeal Regulation 47-51, A.5, may call the parties and any witnesses to appear before it for the taking of such additional evidence as it deems necessary.

2. The parties to an appeal, with the consent of the Appeal Tribunal, may stipulate the facts involved in writing. The stipulations agreed upon shall be included in the record of the case. The Appeal Tribunal may decide the appeal on the basis of such stipulation, or, in its discretion, may set the appeal down for hearing and take such further evidence or hearing arguments, as it deems necessary to determine the appealed claim.

D. Adjournments of Hearings.

1. The Appeal Tribunal shall use its best judgment as to when adjournments of a hearing shall be granted, in order to secure all the evidence that is necessary and to be fair to the parties to the appeal.

2. If the appealing party fails to appear at the hearing, the Tribunal may issue a decision on the basis of records of the Agency.

E. The Determination of Appeals.

1. Following the conclusion of hearing of an appeal, the Appeal Tribunal shall, as soon as possible, announce its findings of fact and decision with respect to matters or issues of the appeal. The decision shall be in writing. The Tribunal shall set forth its findings of fact, its decision, and the reasons therefor.

a. In addition to the issues raised by the appealed determination the Tribunal may consider all issues affecting claimant's rights to benefits from the beginning of the period covered by the determination to the date of the hearing.

b. The Appeal Tribunal may pass upon any offer of work complying with Regulation 41-23, separation, or question of availability arising between the filing of an appeal and the Appeal Tribunal hearing in those cases in which the Benefit Department has issued no determinations with respect to such subsequent issues.

c. The Appeal Tribunal may pass upon any issue framed prior to the filing of the appeal or the determination from which the appeal is taken, and with respect to which no determination has been issued by the Benefit Department.

d. The Appeal Tribunal at a hearing may receive and consider appeals from determinations issued subsequent to the determination and appeal giving rise to the hearing, provided such appeals are timely.

e. Sub-Items (a)(b)(c)(d) supra will apply only when the parties are identical or present at the Appeal Tribunal hearing or properly notified of the issue or issues.

2. Copies of all decisions and the reasons therefore shall be mailed to all parties to the appeal, to the Benefits Department, and to the local office at which the claimant filed.

F. Notice of Rights to Appeal from Appeal Tribunal Decisions.

Each benefit appeal decision sent to the parties to an appeal shall include or be accompanied by a notice specifying the appeal rights of the parties. The notice of appeal rights shall state clearly the place and manner for filing an appeal from the decision and the period within which an appeal may be taken.

47-52. Appeals to the Appellate Panel.

A. The Presentation of Application for Leave to Appeal to the Appellate Panel.

1. Any party aggrieved by the decision of an Appeal Tribunal, may apply for leave to appeal from such decision to the Appellate Panel, by filing at the office where the claim was filed, or at the office of the Appellate Panel in Columbia, South Carolina, within ten (10) calendar days after the date of notification or mailing of the decision of the Appeal Tribunal, an Application for Leave to Appeal to the Appellate Panel on the form provided, setting forth the information required thereon and the grounds for the appeal. Such application may be accompanied by reference from the original record of the hearing before the Appeal Tribunal. Copies of the Application for Leave to Appeal shall be mailed to all interested parties to the decision of the Appeal Tribunal.

2. The Appellate Panel may grant or deny any Application for Leave to Appeal, filed under Regulation 47-52, A.1, without hearing, or may notify the interested parties to appear before it at a specified time and place for argument upon the application. Notices of such hearing for argument upon application shall be

60 FINAL REGULATIONS

mailed to the interested parties to the decision of the Appeal Tribunal at least seven (7) calendar days before the date of the hearing. The Appellate Panel shall specify the matters to be heard and the place and time of hearing.

3. Copies of the Appellate Panel's decision on any Application for Leave to Appeal shall be mailed to all interested parties to the decision.

4. If leave to appeal to the Appellate Panel is granted, the Appellate Panel may schedule a hearing. Notice of hearing on the form provided shall be mailed at least seven (7) calendar days before the date fixed for hearing, specifying the matters to be heard and the place and time of hearing to all interested parties.

B. Hearing of Appeals.

1. Except as provided in Appeal Regulation 47-52, D for the hearing of appeals removed to the Appellate Panel from an Appeal Tribunal, all appeals to the Appellate Panel shall be heard solely upon the evidence in the record before the Appeal Tribunal.

2. In the hearing of an appeal upon the record, the Appellate Panel may limit the parties to oral argument, or may permit the filing of written argument, or both.

C. The Review of Decisions of Appeal Tribunals by the Appellate Panel on Its Own Motion.

1. Within ten (10) calendar days following a decision by an Appeal Tribunal, the Appellate Panel on its own motion may remove any decision to its own jurisdiction for review and may affirm, modify, or set aside such decision on the basis of the evidence previously submitted in such case, or may direct the taking of additional evidence.

2. The Appellate Panel shall in such cases allow the parties an opportunity to present their views before it with seven (7) calendar days notice thereof to all parties interested.

3. Where the Appellate Panel directs the taking of additional evidence, it shall be taken in the manner prescribed for the conduct of hearings on appeals before the Appeal Tribunal, including seven (7) calendar days notice to the parties interested. Upon the completion of the taking of evidence and testimony pursuant to the direction of the Appellate Panel, a new decision shall be issued or the case shall be returned to the Appellate Panel for its consideration and decision.

D. The Hearing by the Appellate Panel on Appeals Ordered Removed to It from an Appeal Tribunal.

1. Any appeal before an Appeal Tribunal, ordered by the Appellate Panel to be removed to itself prior to hearing by the Appeal Tribunal, shall be presented, heard, and decided by the Appellate Panel in the manner prescribed in Regulation 47-51, C.1, 2, and 3, for the hearing of appeals before the Appeal Tribunal.

2. Any appeals heard by an Appeal Tribunal may, prior to a decision by the Tribunal, be ordered by the Appellate Panel to be removed to itself and shall then be presented, heard and decided by the Appellate Panel in the manner prescribed in Appeal Regulation 47-52, C.2 and 3.

E. The Decisions of the Appellate Panel.

1. Appeals before the Appellate Panel may be heard by any two members thereof constituting a quorum. The Appellate Panel shall, as soon as possible, announce its findings and decision with respect to the appeal. The decision shall be in writing and shall be signed by the members of the Appellate Panel who heard the appeal. It shall set forth with respect to the matters appealed, the findings of fact of the Appellate Panel, its decision, and the reasons for such decision.

2. If a decision of the Appellate Panel is not unanimous, the decision of the majority shall control. The minority may be recorded as dissenting or file a written dissent from such decision, which shall set forth the reasons for failure to agree with the majority.

3. Copies of all decisions and the reasons therefore shall be mailed or delivered by the Appellate Panel to the interested parties.

47-53. Issuance of Subpoenas.

A. Subpoenas to compel the attendance of witnesses and the production of records for any hearing of an appeal shall be issued by the Department or its authorized representative or an Appeal Tribunal.

B. Subpoenas for witnesses shall be issued only for the witnesses shown to be necessary in the application.

C. Witnesses subpoenaed for any hearing before an Appeal Tribunal shall be paid witness and mileage fees by the Department in accordance with the schedule allowed witnesses in the Court of Common Pleas of the County in which the hearing is held.

47-54. Orders for Supplying Information from the Records of the Agency.

A. Orders for supplying information from the records of the Department to a claimant or his duly authorized representative, to the extent necessary for the proper presentation of a claim, shall issue only upon application therefore, which shall state, as nearly as possible, the nature of the information desired, and its relevancy to the claim.

B. In all cases where an order to supply a claimant or his duly authorized representative with information from the records is issued, the party shall be furnished such information.

47-55. Representation before Appeal Tribunal and the Appellate Panel.

A. Any individual may appear for himself in any proceeding before an Appeal Tribunal or the Appellate Panel. Any partnership may be represented by any of the partners. An association may be represented by any of the members of such association. A corporation may be represented only by an attorney at law licensed to practice in South Carolina, except that any employee or agent of a corporation may give factual information to the Appellate Panel or the Appeal Tribunal. Representatives of labor unions, employee or employer organizations, may appear and give factual information or data which will be pertinent or helpful to the determination of the issues before the Appellate Panel or the Appeal Tribunal.

B. The Appellate Panel or the Appeal Tribunal, in its discretion, may refuse to allow any person to represent others in any proceeding before it who it finds is guilty of unethical conduct, or who intentionally and repeatedly fails to observe the provisions of South Carolina Law, or the Rules, Regulations, and/or instructions of either the Tribunal or the Appellate Panel.

47-56. Inspection of the Decisions of the Appeal Tribunals and the Appellate Panel.

A. Originals of all decisions of the Appeal Tribunal and the Appellate Panel shall be kept on file at the office of the South Carolina Department of Employment and Workforce, Columbia, South Carolina, and shall be subject to inspection by the parties thereto, or their duly authorized representatives, subject to the provisions of Sections 41-29-150 and 41-29-170 of South Carolina Law.

B. Copies of the complete file of decisions of Appeal Tribunal and the Appellate Panel shall be open to the public for inspection, but such copies shall not reveal the identity of the parties.

62 FINAL REGULATIONS

47-57. Appeal to the Courts.

A. Any party to the appeal before the Appellate Panel who has exhausted his remedies before the Department may, within such time as specified in South Carolina law, Section 41-35-750, file a petition with the court designated by this section for a review of the decision of the Appellate Panel.

B. The party filing the petition for the review shall serve a copy of the petition upon the Department by delivering a copy to the Legal Department of the Department of Employment and Workforce at its central office in Columbia, South Carolina.

Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Rationale:

The purpose of amending and proposing Regulations 47-51 through 47-57 is to create uniformity and delete ambiguity in the Department's regulations. The proposed regulations bring the Department's regulations into conformity with legislative changes passed in the 2010 session. There was no scientific or technical basis relied upon in the development of this regulation.

Document No. 4145
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-149-10

62-900.85 - 62-900.140. South Carolina HOPE Scholarship

Synopsis:

This proposed regulation will clarify the policies and procedures for administering the SC HOPE Scholarship Program at the public and independent colleges and universities in the state. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing the SC HOPE Scholarship funds to eligible students in accordance with the SC Illegal Immigration Reform Act. This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures. The proposed regulation will require legislative review.

A Notice of Drafting was published in the *State Register* on May 28, 2010.

Instructions: Modify and replace in its entirety R.62-900.85 through 62-900.140 with the following:

Text:

Table of Contents:

62-900.85.	Purpose of the SC HOPE Scholarship Program
62-900.86.	Funding
62-900.90.	Program Definitions
62-900.95.	Student Eligibility
62-900.100.	Duration of Award
62-900.105.	Transfer Students

- 62-900.110. Students with Disabilities
- 62-900.111. Military Mobilization
- 62-900.115. Refunds or Repayments
- 62-900.120. Appeals Procedures
- 62-900.125. Institutional Policies and Procedures for Awarding
- 62-900.130. Institutional Disbursements
- 62-900.135. Program Administration and Audits
- 62-900.140. Suspension or Termination of Institutional Participation

62-900.85. Purpose of the SC HOPE Scholarship Program

The South Carolina HOPE Scholarship was established under the South Carolina Education Lottery Act in 2001 and amended by Act 95 during the 2005 legislative session. Act 356 authorizes the Commission on Higher Education to promulgate regulation for administration of the SC HOPE Scholarship Program. The purpose of the SC HOPE Scholarship Program is to provide funding to first-time entering freshmen who do not qualify for the LIFE or Palmetto Fellows Scholarships.

All eligible institutions that participate in the program must verify the lawful presence of any student who receives a SC HOPE Scholarship prior to awarding the Scholarship to the student. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

Independent and public institutions of higher learning in this, or any other state in the U.S., outside the U.S. or abroad are prohibited from using the South Carolina HOPE Scholarship or "SC HOPE" Scholarship in programs that promote financial aid incentives or packages. Any mention of the South Carolina HOPE Scholarship or "SC HOPE" Scholarship in these financial aid packages must indicate the scholarship to be separate from the University that is offering the financial aid package, and reference the South Carolina HOPE Scholarship or "SC HOPE" Scholarship as a separate financial aid award, provided to the student by the State of South Carolina.

62-900.86. Funding

A. Funds made available for SC HOPE Scholarships under the South Carolina Education Lottery Act shall be included in the annual appropriation to the Commission on Higher Education. This program is dependent upon the annual proceeds generated by the Lottery. The Commission on Higher Education shall award funds as SC HOPE Scholarships to eligible students.

62-900.90. Program Definitions

A. "Academic year" is defined as the twelve month period during which a full-time student is expected to earn thirty credit hours. The period of time used to measure the academic year will consist of fall, spring, and summer terms or spring, summer, and fall terms (or its equivalent).

B. "Bachelor's degree program" is defined as a program of study leading to a bachelor's degree as defined by the U.S. Department of Education for participation in federally funded financial aid programs.

C. "Book allowance" shall mean funds that may be applied to the student's account for expenses towards the cost-of-attendance including the cost of textbooks.

D. "Cost-of-attendance" as defined by Title IV Regulations and may include tuition, fees, living expenses, and other costs such as costs related to disability or dependent care.

64 FINAL REGULATIONS

E. “Degree-seeking undergraduate student” is defined as any full-time student enrolled in a bachelor’s degree program at an eligible institution.

F. “Eligible institution” shall be defined as a public or independent bachelor’s level institution in South Carolina.

G. “Felonies” shall be defined as crimes that are classified under State Statute (Section 16-1-10) and that typically require imprisonment for more than one year.

H. “Freshman year” shall mean the first academic year the student matriculates in an institution after high school graduation or completion of an approved home school program.

I. “Full-time student” shall mean a student who has matriculated into a bachelor’s degree program and who enrolls full-time at the home institution, usually fifteen semester credit hours for fall and spring terms or twelve credit hours for fall, eight credit hours for winter, and twelve credit hours for spring trimester terms. In order for the student to be eligible for Scholarship disbursement, the student must be enrolled full-time as stipulated by Title IV Regulations, except that credit hours may not include remedial/developmental and continuing education courses.

J. “High school” is defined as a high school located in South Carolina, an approved home school program as defined in the State Statute, (Sections 59-65-40, 45, and 47) or a preparatory high school located outside of the state while the student is a dependent of a legal resident of South Carolina who has custody or pays child support and college expenses of the dependent high school student in accordance with State Statute (Section 59-112-10). A "preparatory high school" (out-of-state) is defined as a school recognized by the state in which the school is located to offer curricula through the twelfth grade and prepares students for college entrance.

K. “Home institution” shall mean the institution where the student is currently enrolled as a degree seeking student and may be eligible for financial aid at the same institution.

L. “Independent institutions” are defined, for the purposes of the SC HOPE Scholarship Program, as those four-year institutions eligible to participate in the South Carolina Tuition Grants Program as defined in Chapter 113 of Title 59 of the 1976 Code, which stipulates that an “independent institution of higher learning means any independent eleemosynary junior or senior college in South Carolina whose major campus and headquarters are located within South Carolina and which is accredited by the Southern Association of Colleges and Schools;” or an independent bachelor’s level institution chartered before 1962 whose major campus and headquarters are located within South Carolina; or an independent bachelor’s level institution who had a major campus and headquarters located within South Carolina and was accredited by the Southern Association of Colleges and Schools as of March 17, 2004.” Institutions whose sole purpose is religious or theological training or the granting of professional degrees do not meet the definition of ‘independent institution’ for purposes of this chapter. Independent two-year institutions are not eligible for participation in this program.

M. “Initial college enrollment” shall mean the first time the student matriculates into a postsecondary, degree-granting institution after high school graduation. The terms of eligibility are based upon initial college enrollment and continuous enrollment. This means that any break in enrollment (excluding summer) will count against the maximum terms of eligibility.

N. “Military mobilization” is defined as a situation in which the U.S. Department of Defense orders members of the United States Armed Forces to active duty away from their normal duty assignment during a time of war or national emergency.

O. "Misdemeanor offenses" shall be defined as crimes that are classified under State Statute (Section 16-1-100), less serious than felonies, and are typically punishable by fine or imprisonment for less than one year. A complete listing is located in title 16 of State Statute. Examples of alcohol and/or drug misdemeanor offenses in South Carolina include but are not limited to possession of alcohol under the age of 21, possession of marijuana/illegal drugs, open-container, transfer of alcohol to a person under 21, providing false information as to age (fake ID), etc.

P. "Multi-handicapped student" shall be defined as a student who, in addition to being visually or hearing impaired, has at least one additional disabling condition that qualifies the student to receive specialized postsecondary education.

Q. "Public institutions" are those four-year bachelor's degree-granting institutions as defined in Chapter 103 of Title 59 of the 1976 Code, which stipulates "public higher education shall mean state- supported education in the postsecondary field." Public two-year institutions and technical colleges are not eligible for participation in this Program.

R. "Remedial/developmental coursework" shall mean sub-collegiate level preparatory courses in English, mathematics, and reading or any other course deemed remedial by the institution where the course is taken.

S. "South Carolina resident" shall be defined as an individual who satisfies the requirements of residency in accordance with the State of South Carolina Statute for Tuition and Fees, Section 59-112-10, and all related guidelines and regulations promulgated by the Commission on Higher Education as determined by the institutional residency officer each academic year.

T. "Transfer student" shall be defined as a student who has changed enrollment from one institution to an eligible institution.

U. "General Educational Development (GED) Diploma" is defined as a GED high school diploma that was completed in South Carolina or outside of the state while the student was a dependent of a legal resident of South Carolina who had custody or paid child support and college expenses of the dependent GED diploma student. A student who earns a GED diploma cannot receive a SC HOPE Scholarship during his/her initial year (or equivalent) of college enrollment but may earn the LIFE Scholarship in subsequent years. The student must meet the annual credit hour requirement (or equivalent) and a 3.0 "LIFE GPA" at the end of the first academic year.

V. "Lawful Presence" is defined as individuals who are US citizens, permanent residents, or non-US citizens and non-permanent residents who are legally present in the US. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

62-900.95. Student Eligibility

A. To be eligible for a SC HOPE Scholarship, the student must:

1. Be a U.S. citizen or a legal permanent resident that meets the definition of an eligible non-citizen under State residency statutes whose lawful presence in the US has been verified at the time of enrollment at the institution;

2. Be a South Carolina resident for in-state purposes at the time of high school graduation and at the time of enrollment at the institution, as set forth by Section 59-112-10 and be either a member of a class graduating from a high school located in this State, a home school student who has successfully completed a high school home school program in this State in the manner required by law, or a student graduating from a preparatory

66 FINAL REGULATIONS

high school outside this State, while a dependent of a parent or guardian who is a legal resident of this State and has custody of the dependent according to State Statute, Section 59-149-50A. A student must be a legal permanent resident of the United States before being considered to be a South Carolina resident;

3. Earn a cumulative 3.0 grade point average (GPA) based on the Uniform Grading Policy (UGP) upon high school graduation. No other grading policy will be allowed to qualify for the SC HOPE Scholarship. Grade point averages must be reported to two decimal places (minimum) and may not be rounded. For example, a student who earns a 2.99 GPA is not eligible. A student who earns a 3.00 GPA or above is eligible. Institutions shall use the final cumulative GPA as reported by the high school on the official high school transcript. A student who graduates high school with a General Educational Development (GED) Diploma is not eligible to receive the SC HOPE Scholarship;

4. Be admitted, enrolled full-time, and classified as a degree-seeking undergraduate student in an eligible institution in South Carolina;

5. Certify that he/she has never been adjudicated delinquent, convicted, or pled guilty or *nolo contendere* to any felonies and/or any second or subsequent alcohol/drug related misdemeanor offenses under the laws of this or any other state or under the laws of the United States by submitting a signed affidavit each academic year to the institution testifying to the fact. However, a high school or college student who has been adjudicated delinquent, convicted, or pled guilty or *nolo contendere* of a second alcohol or other drug related misdemeanor offense is ineligible for the next academic year of enrollment at an eligible institution after the date of the adjudication, conviction or plea. If the adjudication, conviction, or plea occurs during the academic year after the student has already submitted a signed affidavit to the institution, the student is still eligible for the Scholarship for the remainder of the academic year. However, the student will not be eligible to receive the LIFE Scholarship the following fall, spring, and summer terms (or their equivalent), even if all other eligibility requirements have been met. If a student completes a pretrial intervention program and has his/her record expunged, the conviction will not affect Scholarship eligibility;

6. For a home school graduate to be eligible for the SC HOPE Scholarship, the student must be a member of an approved South Carolina homeschool program as defined in the State Statute (Sections 59-65-40, 45, and 47) that provides a GPA on an official transcript upon high school graduation based on the Uniform Grading Policy. No other grading policy will be allowed to qualify for the SC HOPE Scholarship. Grade point averages must be reported to two decimal places (minimum) and may not be rounded; and

7. In order to meet the GPA requirement, a student who attended an out-of-state preparatory high school or graduated from a SC high school prior to the full implementation of the Uniform Grading Policy must have their grades converted to the SC UGP. These students must meet all other eligibility criteria, including SC residency requirements.

B. Any credit hours attempted or earned before high school graduation, hours exempted by examination, International Baccalaureate (IB) or Advanced Placement (AP) credit hours do not count against the terms of eligibility.

C. Students who complete their high school graduation requirements prior to the official graduation date reported on the final high school transcript may be eligible to receive the SC HOPE Scholarship pending the approval of the Commission on Higher Education (CHE). The institutional representative must complete and submit an Early Graduation Application Form and all appropriate documentation as deemed necessary by CHE for each student by the established deadline. The student must request and submit a letter from the high school principal verifying that he/she has met all graduation requirements along with an official high school transcript.

D. Service members of the United States Armed Forces will not be penalized for any credit hours earned while on active duty. The credit hours earned will not count against the terms of eligibility.

E. Early graduates who enroll mid-year and are classified as degree-seeking will officially begin their initial college enrollment.

F. SC HOPE Scholarship funds may not be applied to the costs of continuing education or remedial/developmental courses. Twelve credit hours of the course load must be nonremedial/developmental and non-continuing education courses in order to receive SC HOPE Scholarship funds.

G. Students receiving a SC HOPE Scholarship are not eligible for a LIFE Scholarship, Palmetto Fellows Scholarship or Lottery Tuition Assistance.

H. Students who meet all eligibility requirements for the SC HOPE Scholarship are eligible to receive Scholarship funds for the freshman year of attendance only.

I. All documents required for determining SC HOPE Scholarship eligibility must be submitted to the institution by their established deadline(s). Students must submit official transcripts from all previous and current institutions, which provide evidence to determine initial college enrollment.

J. All eligible independent and public institutions that participate in the program must verify the lawful presence of any student who receives a SC HOPE Scholarship prior to awarding the Scholarship to the student. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

62-900.100. Duration of Award

A. Students are eligible to receive the SC HOPE Scholarship for no more than two terms (or its equivalent) during the freshman year of attendance only.

B. The maximum number of terms of eligibility is based on the student's initial college enrollment with the exception of credit hours earned during the summer session immediately prior to the student's initial college enrollment.

C. If a student enrolls mid-year (spring term) and receives the SC HOPE Scholarship during that term, then qualifies to receive the LIFE Scholarship at the end of the summer term, the student will not be eligible to receive the SC HOPE Scholarship for the next term. If the student does not meet the requirements to qualify for the LIFE Scholarship, then the student may receive the SC HOPE Scholarship the next term of eligibility.

62-900.105. Transfer Students

A. A student who transfers from an ineligible institution to an eligible institution mid-year during the freshman year of attendance is eligible to receive the SC HOPE Scholarship for the second term of their freshman year only. The student must have met the eligibility requirements as stated in the "Student Eligibility" Section at the beginning of their freshman year.

B. A student who transfers from a two-year or technical institution to an eligible four-year institution who enrolled in remedial courses during the freshman year may be eligible to receive the SC HOPE Scholarship. The terms of eligibility to receive Scholarship funds must not include the period of time the student was enrolled in remedial courses at a two-year or technical institution, unless the student completed at least twelve credit hours of non-remedial course work each term of enrollment during the freshman year. The student will be eligible to receive the Scholarship for the maximum number of terms of eligibility following completion of remediation if the student was eligible to receive the Scholarship upon high school graduation. If the student requires more than one academic year of remedial/developmental coursework, then he/she will not be eligible

68 FINAL REGULATIONS

for the Scholarship after completion of remediation. If the student was not eligible for the Scholarship upon high school graduation, the student will not be eligible for the Scholarship after completion of remediation.

62-900.110. Students with Disabilities

A. Students who qualify under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 must meet all eligibility requirements as defined in the "Student Eligibility" Section except for the full-time enrollment requirement, if approved by the Disability Services Provider. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

B. The institutional Disability Services Provider must provide written documentation to the Office of Financial Aid prior to the freshman year verifying that the student is approved to be enrolled in less than full-time status.

C. Students who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 may receive the maximum number of available terms of eligibility as stated in the "Duration of Award" Section.

D. In order to be eligible for the SC HOPE Scholarship, students who no longer qualify under ADA and Section 504 of the Rehabilitation Act of 1973 must comply with all requirements set forth under the "Student Eligibility" Section.

62-900.111. Military Mobilization

A. Service members who are enrolled in college and are affected by military mobilizations will not be penalized for the term(s) they are required to withdraw after the full refund period based on the institutional policies and procedures. Institutions are strongly encouraged to provide a full refund of required tuition, fees and other institutional charges or to provide a credit in a comparable amount against future charges for students who are forced to withdraw as a result of military mobilization. Additionally, the term(s) that the service member is mobilized will not count against the maximum terms of eligibility. The service member shall be allowed to receive the unused term(s) while mobilized during the succeeding summer term or at the end of the maximum terms of eligibility based on initial college enrollment. The service member must re-enroll in an eligible institution within twelve months upon their demobilization and provide official documentation to verify military deployment to the institutional Financial Aid Office upon re-enrollment. Reinstatement will be based upon the service member's eligibility at the time he/she was mobilized. If the service member re-enrolls after the twelve month period, the service member must submit an Appeal Application to the Commission on Higher Education by the established deadline in order to be considered for reinstatement.

B. Service members who are enrolled in college and are mobilized for an entire academic year may receive the Scholarship for the next academic year, if they met the "Student Eligibility" requirements at the time of high school graduation. Service members who did not use the SC HOPE Scholarship funds/terms of eligibility during this period due to military mobilization shall be allowed to receive Scholarship funds during the succeeding summer term and/or at the end of the maximum terms of eligibility based on initial college enrollment.

C. Service members who are enrolled in college and are mobilized for one academic term and did not use SC HOPE Scholarship funds/terms of eligibility during this period shall be allowed to receive one term of Scholarship funds during the succeeding summer or one term at the end of the maximum terms of eligibility based on initial college enrollment.

D. In order to receive the SC HOPE Scholarship for summer school for the unused term(s), the service member must enroll in twelve credit hours during the succeeding summer term at the home institution.

E. The home institution will be responsible for receiving verification of military mobilization status and terms of eligibility based on the service member's initial college enrollment.

F. Service members of the United States Armed Forces will not be penalized for any credit hours earned while on military mobilization. The credit hours will not count against their terms of eligibility.

62-900.115. Refunds or Repayments

A. In the event a student who has been awarded a SC HOPE Scholarship withdraws, is suspended from the institution, or drops below full-time enrollment status during any term of the academic year, institutions must reimburse the SC HOPE Scholarship Program for the amount of the Scholarship for the term(s) in question pursuant to the refund policies of the institution. Collection is the responsibility of the institution.

B. In the event a student withdraws or drops below full-time status after the institution's refund period and therefore must pay tuition and fees for full-time enrollment, the Scholarship may be retained pursuant to the refund policies of the institution.

62-900.120. Appeals Procedures

A. The Commission on Higher Education shall define the appeals procedures.

B. Students who did not receive the maximum number of terms of eligibility for the Scholarship at the end of the first academic year due to an extenuating circumstance may request an appeal with the Commission on Higher Education.

C. The Commission on Higher Education will allow a student to submit only one appeal at the end of the first academic year based on an extenuating circumstance.

D. A completed appeal application must be filed with the Commission on Higher Education by the established deadline of the academic year the Scholarship is requested. The student must provide a completed application for appeal, a letter requesting an appeal describing the extenuating circumstance, official transcripts from all prior institutions, and any other supporting documentation to substantiate the basis for the appeal. It is the responsibility of the student to ensure that all documents necessary to file an appeal are received at the Commission by the established deadline. Commission staff will not contact the student regarding missing or incomplete appeals documentation. Failure to submit a completed appeal application by the required deadline(s) will result in forfeiture of the scholarship.

E. The SC HOPE Scholarship shall be suspended during the appeal period, but will be awarded retroactively if the appeal is granted.

F. The Appeals Committee's decision is final.

62-900.125. Institutional Policies and Procedures for Awarding

A. SC HOPE Scholarship awards are to be used only for payment toward the cost-of-attendance as established by Title IV regulations. The award amount shall not exceed two thousand eight hundred dollars (includes \$300 book allowance) during the freshman year only. Half shall be awarded during the fall term and half during the spring term (or its equivalent). The SC HOPE Scholarship in combination with all other gift aid, including federal, State, private and institutional funds, shall not exceed the cost-of attendance as defined in Title IV regulations for any academic year.

B. Eligible institutions shall provide an award notification to eligible students that will include the book allowance and also contain the terms and conditions of the Scholarship. Institutions will notify students of all

70 FINAL REGULATIONS

adjustments in Scholarship funds that may result from an over award, change in eligibility, change in the student's residency, change in financial status or other matters.

C. The institution must retain annual paper or electronic documentation for each award to include at a minimum:

- (1) Award notification
- (2) Institutional disbursement to student
- (3) Student's residency status
- (4) Refund and repayment (if appropriate)
- (5) Enrollment and curriculum requirements
- (6) Affidavit documenting that the student has never been convicted of any felonies and/or any second alcohol/drug related misdemeanor offenses within the past academic year as stated under the "Student Eligibility" Section
- (7) High school transcript(s) verifying high school graduation or home school completion date and cumulative grade point average
- (8) Verification from institutional disability service provider of student's disability and approval of reduced course-load requirement (if appropriate)
- (9) Military mobilization orders (if appropriate)
- (10) Verification from the institution that lawful presence in the US has been verified.

D. Any student who has attempted to obtain or obtained a SC HOPE Scholarship award through means of willfully false statement or failure to reveal any material fact, condition, or circumstances affecting eligibility will be subject to applicable civil or criminal penalties, including loss of the SC HOPE Scholarship.

E. Visually impaired, hearing impaired or multi-handicapped students who qualify for the SC HOPE Scholarship may use the State Scholarship funds for the freshman year only to attend a four-year out-of state institution that specializes in educating students with their impairment upon receiving prior approval from the Commission on Higher Education. The Commission on Higher Education shall make the final decision as to whether an out-of-state institution specializes in the postsecondary education of visually impaired, hearing impaired or multi-handicapped students.

F. It is the institution's responsibility to ensure that only eligible students receive the Scholarship.

62-900.130. Institutional Disbursements

A. The eligible institution will identify award amounts, which cannot exceed two thousand eight hundred dollars (includes \$300 book allowance) for students enrolled at four-year public and independent institutions for the freshman year of attendance only. Half shall be disbursed during the fall term and half during the spring term (or their equivalents). Scholarships cannot be disbursed during the summer or any interim sessions. The SC HOPE Scholarship in combination with all other gift aid, including federal, State, private and institutional funds, shall not exceed the cost-of-attendance as defined in Title IV regulations for any academic year.

B. After the last day to register for each term of the academic year, the institution will verify enrollment of each recipient as a South Carolina resident who is enrolled in at least twelve hours of non-remedial coursework and is a degree-seeking student. The institution must submit a request for funds and/or a return of funds by the established deadline each term. In addition, a listing of all eligible recipients by identification number with award amounts for the term must be sent to the Commission on Higher Education by the established deadline each term. At this time, any unused funds must be returned to the Commission immediately.

C. The Commission will disburse awards to the eligible institutions to be placed in each eligible student's account.

D. Students must be enrolled full-time at an eligible institution at the time of Scholarship disbursement. Students who are retroactively awarded must have been enrolled in a minimum of twelve credit hours of non-remedial coursework at the home institution at the time the Scholarship would have been disbursed for that term.

62-900.135. Program Administration and Audits

A. The South Carolina Commission on Higher Education shall be responsible for the oversight of functions (e.g., guidelines, policies, rules, regulations) relative to this program with participating institutions. The Commission on Higher Education shall be responsible for the allocation of funds, promulgation of guidelines and regulations governing the SC HOPE Scholarship Program, any audits or other oversight as may be deemed necessary to monitor the expenditures of Scholarship funds.

B. According to the Audit Policies and Procedures for Scholarship and Grant Programs Manual, all eligible institutions that participate in the program must abide by program policies, rules or regulations. Institutions also agree to maintain and provide all pertinent information, records, reports or any information as may be required or requested by the Commission on Higher Education or the General Assembly to ensure proper administration of the program.

C. The Chief Executive Officer at each participating institution shall identify to the Commission on Higher Education a SC HOPE Scholarship institutional representative who is responsible for the operation of the program on the campus and will serve as the contact person. The institutional representative will act as the student's fiscal agent to receive and deliver funds for use under the program.

D. The participating institution shall identify to the Commission on Higher Education an institutional representative who is responsible for all inquiries pertaining to residency classification for the purposes of awarding the SC HOPE Scholarship.

E. All eligible independent and public institutions that participate in the program must verify the residency status and lawful presence of any student who receives a SC HOPE Scholarship prior to awarding the Scholarship to the student. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

62-900.140. Suspension or Termination of Institutional Participation

A. The Commission may review institutional administrative practices to determine institutional compliance with pertinent statutes, guidelines, rules or regulations. If such a review determines that an institution has failed to comply with program guidelines, rules, or regulations, the Commission may suspend, terminate, or place certain conditions upon the institution's continued participation in the program and require reimbursement to the SC HOPE Scholarship Program for any funds lost or improperly awarded.

B. Upon receipt of evidence that an institution has failed to comply with program rules, regulations, or guidelines, the Commission on Higher Education shall notify the institution in writing of the nature of such allegations and conduct an audit.

C. If an audit indicates that a violation or violations may have occurred or are occurring at any public or independent college or university, the Commission on Higher Education shall secure immediate reimbursement from the institution in the event that any funds were expended out of compliance with the provisions of the Act, any relevant Statutes, pertinent rules, and regulations.

72 FINAL REGULATIONS

D. The institution is responsible for determining SC Residency and lawful presence off all SC HOPE Scholarship recipients. If it is determined that the institution has failed to verify the lawful presence and SC residency of a SC HOPE Scholarship recipient, the institution shall immediately reimburse the Commission with any and all funds disbursed in error.

E. Independent and public institutions of higher learning in this, or any other state in the U.S., are prohibited from using the South Carolina HOPE Scholarship or “SC HOPE” Scholarship in programs that promote financial aid incentives or packages. Any mention of the South Carolina HOPE Scholarship or “SC HOPE” Scholarship in these financial aid packages must indicate the scholarship to be separate from the University that is offering the financial aid package, and reference the South Carolina HOPE Scholarship or “SC HOPE” Scholarship as a separate financial aid award, provided to the student by the State of South Carolina.

F. The student shall be required to provide a nationally recognized, unique identifier in order to award, disburse and/or transfer the student’s SC HOPE Scholarship to an eligible institution.

Fiscal Impact Statement:

There will be no increased administration costs to the state or its political subdivisions.

Statement of Rationale:

This proposed regulation will clarify the policies and procedures for administering the SC HOPE Scholarship Program at the public and independent colleges and universities in the state. The proposed regulation includes the eligibility criteria that students must meet in order to be awarded a SC HOPE Scholarship. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students’ eligibility and when disbursing SC HOPE Scholarship funds to eligible students. This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures.

Document No. 4146
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-149-10

62-1200.1 - 62-1200.75. Legislative Incentives for Future Excellence (LIFE) Scholarship & Legislative Incentives for Future Excellence (LIFE) Scholarship Enhancement

Synopsis:

The South Carolina Commission on Higher Education proposes the following revisions to Chapter 62 regulation, R.62-1200.1 through 62-1200.75, LIFE Scholarship Program. In 2008, the SC General Assembly passed the SC Illegal Immigration Reform Act, which required the verification of lawful status for all LIFE Scholarship recipients. The proposed regulation will ensure the LIFE Scholarship Program is compliant with the mandates of Act 280. The proposed regulation provides the eligibility criteria that students must meet in order to be awarded a LIFE Scholarship and a LIFE Scholarship Enhancement. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students’ eligibility and when disbursing LIFE Scholarship and LIFE Scholarship Enhancement funds to eligible students.

A Notice of Drafting was published in the *State Register* on May 28, 2010.

Instructions: Modify and replace in its entirety R.62-1200.1 through 62-1200.75 with the following.

Text:

Table of Contents:

62-1200.1.	Purpose of the LIFE Scholarship Program
62-1200.5.	Program Definitions
62-1200.10.	Student Eligibility: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.15.	Continued Eligibility: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.20.	Terms of Eligibility: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.25.	Regaining or Earning Eligibility: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.30.	Transfer Students: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.35.	Students with Disabilities: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.40.	Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, and National and International Student Exchange Programs: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.45.	Military Mobilization: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.50.	Refunds and Repayments: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.55.	Appeals Procedures: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.60.	Institutional Policies and Procedures for Awarding: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.65.	Institutional Disbursements: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.70.	Program Administration and Audits: LIFE Scholarship and LIFE Scholarship Enhancement
62-1200.75.	Suspension and Termination of Institutional Participation: LIFE Scholarship and LIFE Scholarship Enhancement

62-1200.1. Purpose of the LIFE Scholarship Program.

Pursuant to Act 418, which was initially established in 1998 as Title 59 of the 1976 code and amended by Act 162 during the 2005 legislative session, the Commission on Higher Education shall promulgate regulation and establish procedures for administration of the LIFE Scholarship Program. The General Assembly established the LIFE Scholarship Program in order to increase the access to higher education, improve the employability of South Carolina's students so as to attract business to the State, provide incentives for students to be better prepared for college, and to encourage students to graduate from college on time.

With Act 115, which was established in 2007 as Title 59 of the 1976 code during the 2007 legislative session, the General Assembly established the LIFE Scholarship Enhancement in order to increase the number of students in the State majoring in mathematics and science and to increase the access to higher education, improve the employability of South Carolina's students so as to attract business to the State, provide incentives for students to be better prepared for college, and to encourage students to graduate from college on time. Students enrolled at two-year institutions are not eligible to receive a LIFE Scholarship Enhancement. In order to receive a LIFE Scholarship Enhancement, all students must qualify for the LIFE Scholarship as stipulated herein.

Independent and public institutions of higher learning in this, or any other state in the U.S., outside the U.S. or abroad, are prohibited from using the Legislative Incentive for Future Excellence or "LIFE" Scholarship in programs that promote financial aid incentives or packages. Any mention of the Legislative Incentive for Future Excellence or "LIFE" Scholarship in these financial aid packages must indicate the scholarship to be separate from the University that is offering the financial aid package, and reference the Legislative Incentive for Future Excellence or "LIFE" Scholarship as a separate financial aid award, provided to the student by the State of South Carolina.

74 FINAL REGULATIONS

All eligible independent and public institutions that participate in the program must verify the lawful presence of any student who receives a LIFE Scholarship and LIFE Scholarship Enhancement prior to awarding the Scholarship to the student. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

62-1200.5. Program Definitions.

A. "Academic year" is defined as the twelve month period during which a full-time student is expected to earn thirty credit hours. The period of time used to measure the academic year will consist of the fall, spring and summer terms (or its equivalent).

B. A student who has earned a GED diploma or SC High School Diploma through Adult Education without a cumulative GPA may be eligible to earn the LIFE Scholarship at the end of the first academic year of a non-GED program. The student must meet the annual credit hour requirement (or equivalent) and a 3.0 "LIFE GPA" at the end of the first academic year. To qualify for subsequent years, the student must meet all eligibility requirements as stated in Section 62-1200.15., Continued Eligibility section of the LIFE Scholarship and LIFE Scholarship Enhancement.

C. An "approved five-year bachelor's degree program" shall mean a five-year bachelor's program as defined and approved by the Commission on Higher Education to receive the LIFE Scholarship for a maximum of ten terms at the same eligible institution in order to complete the requirements for a bachelor's degree. An approved five-year bachelor's degree program does not include inter-institutional and cooperative "3+2" programs (normally in a science degree field and an engineering program).

D. "Annual credit hour requirement" shall be defined as an average of thirty (30) credit hours earned at the end of the academic year based on initial college enrollment at all eligible institutions attended, excluding hours for remedial, continuing education, and non-degree coursework. Credit hours earned before high school graduation, including Advanced Placement (AP) credit hours, International Baccalaureate (IB) credit hours, exempted credit hours as well as credit hours earned on active duty, must be placed on the student's official college transcript by the institution at which they are earned, and must be counted toward the annual credit hour requirement.

E. "Associate's degree program" is defined as a two-year technical or occupational program, or at least a two-year program that is acceptable for full credit towards a bachelor's degree as defined by the U.S. Department of Education.

F. "Attempted credit hours" shall be defined as courses in which a student earns a grade and is included in the grade point calculation for that institution. Eligible credit hours that do not transfer must also be included. Credit hours earned through dual-enrollment prior to high school graduation must be included in the LIFE GPA. Exempted credit hours, Advanced Placement (AP), International Baccalaureate (IB), College Level Examination Program (CLEP), remedial/developmental courses, non-degree credit courses for an associate's degree or higher, Pass/Fail, Satisfactory/Unsatisfactory and non-penalty withdrawal credit hours are excluded from the "attempted credit hours." If a student transfers, refer to the institution's grading policy where the credit hours were earned. Any credit hours attempted or earned before high school graduation, hours exempted by examination, Advanced Placement (AP) or International Baccalaureate (IB) credit hours do not count against the terms of eligibility.

G. "Bachelor's degree program" is defined as an undergraduate program of study leading to a bachelor's degree as defined by the U.S. Department of Education.

H. "Book allowance" shall mean funds that may be applied to the student's account for expenses towards the cost-of-attendance including the cost of textbooks.

I. "CIP Code (Classification of Instructional Program)" The U.S. Department of Education's standard for federal surveys and state reporting for institutional data (majors, minors, options and courses). For the purpose of receiving the LIFE Scholarship Enhancement, CIP codes have been approved by the Commission on Higher Education for eligible degree programs in the fields of mathematics and science.

J. "Cost-of-attendance" as defined by Title IV Regulations and may include tuition, fees, living expenses, and other expenses such as costs related to disability or dependent care.

K. "Cost-of-tuition" shall mean the amount charged for enrolling in credit hours of instruction and mandatory fees assessed to all students. Other fees, charges, or cost of textbooks cannot be included.

L. "Declared major" shall be defined, for the purposes of the LIFE Scholarship Enhancement, as a degree program in which a student is enrolled as a full-time, degree-seeking student. The student must meet all requirements as stipulated by the policies established by the institution and the academic department to be enrolled as a declared major in an eligible program. Students cannot take courses related to a specific program without meeting institutional and departmental policies and be considered as a declared major. Students must be enrolled as a declared major in an eligible program that is approved and assigned a CIP code by the Commission. Eligible programs are those listed as such on the Commission's website.

M. "Degree-seeking student" is defined as any full-time student enrolled in an eligible institution which leads to the first one-year certificate, first two-year program or associate's degree, or first bachelor's or program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree. Upon completion of the first one-year certificate, first two-year program or associate's degree, or first bachelor's or program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree, the student cannot use scholarship funds to pursue a program in the same or preceding level. Students are eligible to receive the Scholarship for a maximum of eight terms (or its equivalent) towards an undergraduate degree, as long as all other eligibility requirements are met and the program is approved by the Commission on Higher Education. Students must be enrolled in an undergraduate degree program in order to receive a LIFE Scholarship and a LIFE Scholarship Enhancement each academic term. In cases where students are enrolled in a program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree, which will be the students' first academic degree awarded, the students must maintain their undergraduate status to be awarded the LIFE Scholarship and the LIFE Scholarship Enhancement, with the exception of students declaring a major in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master's of Science in Physician Assistant Studies Program, the Master's of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina. Students who have been awarded a bachelor's degree or graduate degree are not eligible to be awarded a LIFE Scholarship or a LIFE Scholarship Enhancement. Students enrolled in a CHE approved five-year bachelor's degree program may be eligible to receive a LIFE Scholarship for a fifth year of full-time, undergraduate work and a LIFE Scholarship Enhancement for a fourth year of full-time undergraduate coursework.

N. "Eligible institution" shall be defined, solely for the purposes of the annual credit hour requirement and the LIFE GPA calculation, as an accredited public or independent postsecondary, degree-granting institution located in-state or out-of-state. The institution must be accredited by an agency recognized by the U.S. Department of Education for participation in federally funded financial aid programs. This list may be found on the US Department of Education's website.

O. "Eligible program of study" is defined as a program of study leading to: 1) at least a one-year educational program that leads to a first certificate or other recognized educational credential (e.g., diploma); 2) the first associate's degree; 3) at least a two-year program that is acceptable for full credit towards a bachelor's degree; 4) the first bachelor's degree; or 5) a program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree. Students are eligible to receive the

76 FINAL REGULATIONS

LIFE Scholarship for a maximum of eight terms (or its equivalent) towards an undergraduate degree as long as all eligibility requirements are met and the program is approved by the Commission on Higher Education. Students who have been awarded a bachelor's or graduate degree are not eligible for Scholarship or Enhancement funding. Students enrolled in an approved five-year degree program may be eligible to receive a LIFE Scholarship for a fifth year of full-time, undergraduate work and a LIFE Scholarship Enhancement for a fourth year of full-time undergraduate coursework.

P. "Eligible degree program/Qualifying degree program" shall be defined, for the purposes of the LIFE Scholarship Enhancement, as a degree program in mathematics or science as approved by the SC Commission on Higher Education. These programs shall include science and mathematics disciplines, computer science or informational technology, engineering, science education, math education and health care and related disciplines including medicine and dentistry as defined by the Commission on Higher Education. Enrollment in a minor does not meet the requirement of an eligible degree program for a LIFE Scholarship Enhancement. Students must be enrolled as a declared major in an eligible program that is approved and assigned a CIP code by the Commission. Eligible programs must be approved by the South Carolina Commission on Higher Education. Eligible/Qualifying programs are those listed as such on the Commission's website.

Q. "Felonies" shall be defined as a crimes classified under State statute (16-1-10) and typically require imprisonment for more than one year.

R. "Fifth year/senior year" shall mean any student who is enrolled in his or her ninth or tenth semester of full-time, undergraduate coursework in an approved five-year program following high school graduation. The student is in his/her fifth year of consecutive, full-time college enrollment based on the student's initial date of college enrollment after graduation from high school.

S. "First year student/Freshman" is defined as any student who is enrolled as a first year student in his or her first or second semester of undergraduate coursework following high school graduation.

T. "Fourth year/senior year" shall mean seventh or eighth semester of full-time, undergraduate coursework following high school graduation. The student is in his/her fourth year of consecutive, full-time college enrollment based on the student's initial date of college enrollment after graduation from high school.

U. "Full-time student" shall mean a student who has matriculated into an eligible program of study and who enrolls full-time, usually fifteen credit hours for fall and spring terms or twelve credit hours for fall, eight credit hours for winter, and twelve credit hours for spring trimester terms. The student must earn an average of thirty credit hours per academic year to receive a LIFE Scholarship. In order for the student to be eligible for Scholarship disbursement, the student must be enrolled full-time at the home institution as stipulated by Title IV Regulations, except that credit hours may not include remedial/developmental, continuing education, and non-degree credit courses for an associate's degree or higher.

V. "General Educational Development (GED) Diploma" is defined as a GED high school diploma that was completed in South Carolina or outside of the state while the student was a dependent of a legal resident of South Carolina who had custody or paid child support and college expenses of the dependent GED diploma student. A student who earns a GED diploma cannot receive a LIFE Scholarship during his/her initial year (or equivalent) of college enrollment but may earn the scholarship in subsequent years.

W. "High school" is defined as a high school located in South Carolina, an approved home school program as defined in the State Statute, (Sections 59-65-40, 45, and 47) or a preparatory high school located outside of the state while the student is a dependent of a legal resident of South Carolina who has custody or pays child support and college expenses of the dependent high school student in accordance with State Statute 59-112-10. A "preparatory high school" (out-of-state) is defined as a school recognized by the state in which the school is located to offer curricula through the twelfth grade and prepares students for college entrance.

X. "Home institution" shall mean the institution where the student is currently enrolled as a degree-seeking student and may be eligible for financial aid at the same institution.

Y. "Independent institutions/private institutions" are those institutions eligible to participate in the South Carolina Tuition Grants Program as defined in Chapter 113 of Title 59 of the 1976 Code, which stipulates that an "independent institution of higher learning means any independent eleemosynary junior or senior college in South Carolina which is accredited by the Southern Association of Colleges and Schools; or an independent bachelor's level institution chartered before 1962 whose major campus and headquarters are located within South Carolina; or an independent bachelor's level institution which was incorporated in its original charter in 1962, was granted a license to operate in 1997 by the Commission on Higher Education, has continued to maintain a campus in South Carolina, and is accredited by the Southern Association of Colleges and Schools. Institutions whose sole purpose is religious or theological training or the granting of professional degrees do not meet the definition of 'public or independent institution' for purposes of this chapter."

Z. "Ineligible degree program" shall be defined, for the purposes of the LIFE Scholarship Enhancement, as a degree program that is not included on the Commission's posted list of approved eligible programs and assigned a CIP code.

AA. "Initial college enrollment" shall mean the first time the student enrolls into a postsecondary degree-granting institution after high school graduation, completion of a GED/Adult Education Program or completion of an approved home school program. The terms of eligibility and the annual credit hour requirement are based upon initial college enrollment and continuous enrollment. This means that students must adhere to the 30 credit hour requirement even if they have a break in enrollment. Any break in enrollment (excluding summer) will also count against the terms of eligibility.

BB. "LIFE GPA" shall be defined as the cumulative grade point average calculation that includes credit hours and grades earned at all eligible institutions based on a 4.0 scale. The LIFE grade point average must not include attempted credit hours earned for continuing education courses, non-degree credit courses for an associate's degree or higher and remedial/developmental courses. See Section 62-900.55 for the steps to calculate the "LIFE GPA."

CC. "LIFE Scholarship recipient" is defined as a student who meets all of the eligibility requirements to receive a LIFE Scholarship and is awarded LIFE Scholarship funds during a given academic year. Students who meet the eligibility requirements for a LIFE Scholarship but do not receive any LIFE Scholarship funds, due to the cost of attendance being met by other sources of financial aid, do not meet the definition of a LIFE Scholarship recipient.

DD. "Military mobilization" is defined as a situation in which the U.S. Department of Defense orders members of the United States Armed Forces to active duty away from their normal duty assignment during a time of war or national emergency.

EE. "Misdemeanor offenses" shall be defined as crimes classified under State statute (16-1-100) which are typically punishable by fine or imprisonment for less than one year. A complete listing is located in title 16 of State statute. Examples of alcohol and drug misdemeanors in South Carolina include but are not limited to possession of alcohol under the age of 21, possession of marijuana/illegal drugs, open-container, transfer of alcohol to person under 21, false information as to age (fake ID), etc.

FF. "Non-degree credit courses" shall be defined as courses that count towards graduation in a certificate or diploma program only. Non-degree credit courses must not be used in the "LIFE GPA" calculation or towards the annual credit hour requirement for an associate's degree or higher.

78 FINAL REGULATIONS

GG. A “one-year educational program” is defined as an undergraduate program of study leading to recognized credentials (e.g., certificates or diplomas), as defined by the U.S. Department of Education for participation in federally funded financial aid programs and which prepares students for gainful employment in recognized occupations.

HH. “Private institutions” are those institutions eligible to participate in the South Carolina Tuition Grants Program as defined in Chapter 113 of Title 59 of the 1976 Code, which stipulates that an “independent institution of higher learning means any independent eleemosynary junior or senior college in South Carolina which is accredited by the Southern Association of Colleges and Schools; or an independent bachelor’s level institution chartered before 1962 whose major campus and headquarters are located within South Carolina; or an independent bachelor’s level institution which was incorporated in its original charter in 1962, was granted a license to operate in 1997 by the Commission on Higher Education, has continued to maintain a campus in South Carolina, and is accredited by the Southern Association of Colleges and Schools. Institutions whose sole purpose is religious or theological training or the granting of professional degrees do not meet the definition of ‘public or independent institution’ for purposes of this chapter.”

II. “Program of study that is structured so as not to require a bachelor’s degree for acceptance into the program and leads to a graduate degree”, which will be the student’s first academic degree awarded. Students are eligible to receive the LIFE Scholarship for a maximum of eight terms (or its equivalent) and the LIFE Scholarship Enhancement for a maximum of six terms (or its equivalent) as long as all other eligibility requirements are met and the program is approved by the Commission on Higher Education. Students who have been awarded a bachelor’s or graduate degree are not eligible for Scholarship funding. Students must maintain their undergraduate status in order to receive a LIFE Scholarship and a LIFE Scholarship Enhancement each academic term, with the exception of students declaring a major in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master’s of Science in Physician Assistant Studies Program, the Master’s of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina.

JJ. “Public institutions” are institutions of higher learning as defined in Chapter 103 of Title 59 of the 1976 Code, which stipulates “public higher education shall mean any state supported postsecondary educational institution and shall include technical and comprehensive educational institutions.”

KK. “Remedial/developmental coursework” shall mean sub-collegiate level preparatory courses in English, mathematics, reading and any courses classified as remedial by the institution where the course is taken.

LL. “Satisfactory academic progress” shall be defined as the academic progress in the declared major as required by the institution and academic department in which the student is enrolled as a full-time, degree-seeking student. The student must meet all requirements for satisfactory academic progress towards completion of the declared major as established by the policies of both the institution and academic department in which the student is enrolled to meet the requirements of satisfactory academic progress.

MM. “Second year/sophomore year” shall mean any student who is enrolled in his or her third or fourth semester of full-time, undergraduate coursework following high school graduation. The student is in his/her second year of consecutive, full-time college enrollment based on the student’s initial date of college enrollment after graduation from high school.

NN. “South Carolina resident” shall be defined as an individual who satisfies the requirements of residency in accordance with the State of South Carolina State Statute for Tuition and Fees, Section 59-112-10 and all related guidelines and regulations promulgated by the Commission on Higher Education as established by the institutional residency officer each academic year.

OO. "Third year/junior year" shall mean the fifth or sixth semester of full-time, undergraduate coursework following high school graduation. The student is enrolled in his/her third year of consecutive, full-time enrollment based on the student's initial date of college enrollment after graduation from high school.

PP. "3 plus 2 programs" is defined, for the purposes of the LIFE Scholarship Enhancement, as a program (typically an engineering major) in which a student completes three years of a baccalaureate program at one institution, at which time the student transfers to a second institution and completes the remaining two years of an undergraduate degree program. When the student completes the fourth year of enrollment, credit hours are transferred back to the initial institution, which confers the first baccalaureate degree (e.g., physics) using articulated credits from the second institution. At the end of the second year of enrollment at the second institution, the student receives the second baccalaureate degree (e.g., engineering). 3 plus 2 programs for the purposes of receiving the LIFE Scholarship Enhancement shall be defined and approved by the SC Commission on Higher Education. Students must be enrolled as a declared major in an eligible program that is approved and assigned a CIP code by the Commission. Enrollment in a minor does not meet the requirement of an eligible degree program for a LIFE Scholarship Enhancement award.

QQ. "Transfer student" shall be defined as a student who has changed enrollment from one institution to a SC public or independent institution.

RR. "Substantially deviates" shall be defined, for the purposes of reviewing out-of-state preparatory high school grading scales, as being less than equivalent to the 2007 Uniform Grading Policy.

SS. "Preparatory high school" (out-of-state) is defined as a school recognized by the state in which the school is located to offer curricula through the twelfth grade and prepares students for college entrance.

TT. "Lawful Presence" is defined as individuals who are US citizens, permanent residents, or non-US citizens and non-permanent residents who are legally present in the US. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

UU. "Continuously enrolled" is defined as enrollment without an interruption that would require the student to pursue a formal process of readmission to that institution. Formal petitions or applications for change of degree level shall be considered readmissions. Students who attend summer terms or are selected for military mobilization are considered continuously enrolled. Students who are enrolled in internships, cooperative work programs, travel study programs, or National or International Exchange Programs that are approved by the home institution are considered continuously enrolled.

62-1200.10. Student Eligibility: LIFE Scholarship and LIFE Scholarship Enhancement.

A. To be eligible for a LIFE Scholarship, students must:

1. Be a U.S. citizen or a legal permanent resident that meets the definition of an eligible non-citizen under State Residency Statutes whose lawful presence has been verified at the time of enrollment at the institution; and

2. Be a South Carolina resident for in-state purposes at the time of high school graduation and at the time of enrollment at the institution, as set forth by Section 59-112-10, and be either a member of a class graduating from a high school located in this State, or a student who has successfully completed at least three of the final four years of high school within this State, or a home school student who has successfully completed a high school home school program in this State in the manner required by law, or a student graduating from a preparatory high school outside this State, while a dependent of a parent or guardian who is a legal resident of this State and has custody of the dependent according to State Statute, Section 59-149-50A or a student whose

80 FINAL REGULATIONS

parent or guardian has served in or has retired from one of the United States Armed Forces within the last four years, paid income taxes in this State for a majority of the years of service, and is a resident of this State. A student must be a legal permanent resident of the United States before being considered to be a South Carolina resident;

3. Meet two of the following three criteria if a first-time entering freshman at an eligible four-year institution:

a. Earn a cumulative 3.0 grade point average (GPA) based on the Uniform Grading Policy (UGP) upon high school graduation. No other grading policy will be allowed to qualify for the LIFE Scholarship. Grade point averages must be reported to two decimal places (minimum) and may not be rounded. For example, a student who earns a 2.99 GPA is not eligible. Institutions shall use the final GPA as reported on the official transcript.

b. Score at least an 1100 on the Scholastic Assessment Test (SAT) or an equivalent ACT score of 24. Test scores will be accepted through the June national test administration of the SAT and ACT during the year of high school graduation. The student must use the highest SAT Math score combined with the highest SAT Critical Reading score (formerly known as the Verbal score). It is permissible to select scores from different test administrations in order to obtain the qualifying composite score. Students cannot use the Writing subsection score to obtain the qualifying composite score. The composite ACT score must be based upon one test administration.

c. Rank in the top thirty percent of the graduating class consisting of high school diploma candidates only. The rank must also be based on the UGP only. Ranking percentages must be reported to two decimal places (minimum) and may not be rounded. For example, a student who has a class rank of 13 of 43 ($13/43 \times 100 = 30.23\%$) will not rank in the top thirty percent of the class since 30.23% is not within thirty percent. To determine the top thirty percent for graduating classes with three or less students, the student who is ranked number one in the class would be considered in the top thirty percent for LIFE Scholarship eligibility. Institutions shall use the final ranking as reported by the high school on the official transcript. If a student is a member of an approved home school association that ranks, a ranking report must be attached to the official transcript. High schools or home school associations that do not rank as a policy; or high schools whose grading policy deviates from the current SC Uniform Grading Policy and that do not convert the graduating class to the current SC UGP to determine class rank, must use the GPA and SAT or ACT criteria when attempting to meet the academic requirements for the LIFE Scholarship. High schools or home school associations shall not use ranking for the sole purpose of obtaining eligibility for the state scholarships.

d. For the purposes of meeting the rank criterion, the existing high school rank of a South Carolina resident attending an out-of-state high school may be used provided it is calculated pursuant to a state-approved, standardized grading scale at the respective out-of-state high school. If the eligible South Carolina institution determines that a state-approved standardized grading scale substantially deviates from the S.C. Uniform Grading Policy (UGP), the institution must submit the grading scale to CHE for further review. If CHE confirms the out-of-state grading scale substantially deviates from the S.C. UGP, the state-approved, standardized grading scale shall not be used to meet the eligibility requirements for the LIFE Scholarship. When converting scores to the SC UGP, weighting must adhere to the SC UGP (i.e. honors no more than .50 and AP/IB no more than 1.0). In addition, scores/grades must correspond to the SC UGP. For example, if a student earned a 90 in an honors class, the conversion of the score/grade must be equivalent to the points assigned according to the current SC UGP. The guidance counselor from the out-of-state preparatory school also has the option of converting the cumulative GPAs of all students in the applicant's class to the S.C. UGP to determine if the student ranks within the top thirty percent of the class. To be considered equivalent to the SC UGP, the out-of-state school's grading scale must adhere to the following minimum requirements:

(1) Must include all courses carrying Carnegie units, including units earned at the middle school and high school level;

(2) To be equivalent to an “A” letter grade, the numerical average must be ≥ 93 ; to be equivalent to a “B” letter grade the numerical average must be between 85 and 92; to be equivalent to a “C” letter grade the numerical average must be between 77 and 84; to be equivalent to a “D” letter grade the numerical average must be between 70 and 76; and to be equivalent to a “F” letter grade the numerical average must be between 62 and 69 (if a course with a numerical average of < 62 is considered passing by the high school the student earned the grade, then a 73 numerical average should be given);

(3) Cannot add more than one half (.50) additional quality point for honors courses; cannot add more than one additional quality point for dual enrollment (DE) courses, Advanced Placement (AP) courses, and standard level International Baccalaureate (IB) courses; and, cannot add more than two additional quality points for higher level IB courses;

(4) Must classify all other courses as College Preparatory if they are not already classified as honors, DE, AP or IB. For a class to be classified as honors, the course must be in English, mathematics, science or social studies or be the third/fourth level for all other content areas; and,

(5) If no numerical average is available, all letter grades must be converted to the equivalent numerical average based on the following: all “A” letter grades must be converted to a 96 numerical average, all “B” letter grades must be converted to a 88 numerical average, all “C” letter grades must be converted to a 80 numerical average, all “D” letter grades must be converted to a 73 numerical average, and all “F” numerical averages must be converted a 61 numerical average.

4. Earn a cumulative 3.0 grade point average (GPA) on the Uniform Grading Policy upon high school graduation and score at least an 1100 on the Scholastic Assessment Test (SAT I) or an equivalent ACT score of 24 if a first-time entering freshman graduates from a non-ranking South Carolina high school, non-ranking South Carolina approved home school association or out-of-state preparatory high school and attends an eligible four-year institution;

5. Earn a cumulative 3.0 grade point average (GPA) upon high school graduation on the Uniform Grading Policy if a first-time entering freshman at an eligible two-year or technical institution. No other grading policy will be allowed to qualify for the LIFE Scholarship. Grade point ratios must be reported to two decimal places (minimum) and may not be rounded. For example, a student who earns a 2.99 GPA is not eligible. Institutions shall use the final GPA as reported by the high school on the official transcript;

6. Be admitted, enrolled full-time, and classified as a degree-seeking student at a public or independent institution in South Carolina;

7. Certify that he/she has never been adjudicated delinquent, convicted, or pled guilty or *nolo contendere* to any felonies or any second or subsequent alcohol/drug related offenses under the laws of this or any other state or under the laws of the United States in order to be eligible for a LIFE Scholarship, except that a high school or college student otherwise qualified who has been adjudicated delinquent or has been convicted or pled guilty or *nolo contendere* to a second or subsequent alcohol or drug-related misdemeanor offense nevertheless shall be eligible or continue to be eligible for such scholarships after the expiration of one academic year from the date of the adjudication, conviction, or plea by submitting an affidavit each academic year to the institution. However, a high school or college student who has been adjudicated delinquent, convicted, or pled guilty or *nolo contendere* to a second alcohol/drug related misdemeanor offense is ineligible for the next academic year of enrollment at an eligible institution after the date of the adjudication, conviction or plea. If the adjudication, conviction, or plea occurs during the academic year after the student has already submitted a signed affidavit to the institution, the student will be eligible to receive the Scholarship the remainder of the academic year. However, the student will be ineligible for the Scholarship the following entire academic year of enrollment. If a student completes a pretrial intervention program and has his/her record expunged the conviction will not affect Scholarship eligibility; and

82 FINAL REGULATIONS

8. Certify that he/she has not defaulted and does not owe a refund or repayment on any federal or state financial aid. If a student has an Institutional Student Information Record (ISIR) or its equivalent on file, the ISIR information will be used to verify default status or refund/repayment owed on any Federal or State financial aid. Students who have not completed a Free Application for Federal Student Aid (FAFSA) must have an affidavit on file to verify that he/she is not in default and does not owe a refund or repayment on any Federal or State financial aid including, state grants/scholarships, Federal Pell Grant, Supplemental Educational Opportunity Grant, Perkins Loan and Federal Stafford Loan.

B. Any credit hours attempted or earned before high school graduation, hours exempted by examination, International Baccalaureate (IB) or Advanced Placement (AP) credit hours do not count against the terms of eligibility as provided in State Statute, Section 59-149-60. The credit hours earned before high school graduation can be used toward the credit hour requirement. Credit hours earned through CLEP, IB or AP will be used toward the credit hour requirement.

C. Service members of the United States Armed Forces will not be penalized for any credit hours earned while on active duty. The credit hours earned on active duty will not count against the terms of eligibility, but will be used towards the annual credit hour requirement.

D. First-time entering freshmen will not be penalized for any credit hours earned during the summer session immediately prior to the student's initial college enrollment. The credit hours earned will not count against the terms of eligibility. The credit hours may be used toward the annual credit hour requirement.

E. Students who complete their high school graduation requirements prior to the official graduation date reported on the final high school transcript may be eligible to receive the LIFE Scholarship dependent on the approval of the Commission on Higher Education (CHE). The student must complete and submit an Early Graduation Application, an official high school transcript, an official letter from the high school principal verifying that he/she has met all graduation requirements, and SAT/ACT scores (if attending a four-year institution) by the established deadline. Early graduates cannot use class rank in order to qualify for the LIFE Scholarship at four-year institutions for the spring semester since the class has not officially graduated. A student may use class rank to receive the Scholarship after the class officially graduates. Early graduates who enroll mid-year (spring term) and are awarded the LIFE Scholarship through the Early Graduation process will officially begin their initial college enrollment. In order to receive the LIFE Scholarship the next academic year, the student must earn a minimum of fifteen credit hours and a 3.0 "LIFE GPA" at the end of the academic year. The student will be eligible to receive the maximum number of terms of eligibility based on initial college enrollment. If a student does not submit an early graduation application for the spring term and has not officially graduated, the student should not have received the LIFE Scholarship and that term will not count against his/her terms of Scholarship eligibility.

F. First-time entering freshmen who enroll mid-year (spring semester) are eligible for the LIFE Scholarship if they qualified upon high school graduation.

G. LIFE Scholarship funds may not be applied to the cost of continuing education, remedial/developmental or non-degree credit courses for an associate's degree or higher. Twelve credit hours of the courseload must be non-remedial/developmental, non-continuing education or degree-credit courses for an associate's degree or higher in order to receive LIFE Scholarship funds. Continuing education, non-degree credit for an associate's degree or higher and remedial/developmental courses will not be included in the "LIFE GPA" or credit hour calculations.

H. Non-degree credit hours shall be used to meet the full-time eligibility criteria for a diploma or certificate program only. Students must sign an affidavit certifying that they understand that non-degree credit hours will not be used in calculating the "LIFE GPA" or credit hour requirements if they are enrolled in an Associate's degree or higher.

I. Credit hours earned during the student's first two term(s) of remedial/developmental enrollment will not be used to determine remaining Scholarship eligibility at the completion of remediation unless the student has completed at least twelve credit hours of non-remedial/developmental coursework each term of enrollment. First-time entering freshmen attending an eligible two-year institution or technical college who enroll in fewer than twelve credit hours of non-remedial/developmental, including at least three hours of remedial/developmental courses during the first term(s) will not be eligible for Scholarship funds during this period. The student's initial college enrollment will begin after a maximum of two terms of remediation at an eligible two-year or technical college only. The student will be eligible for the Scholarship for the term following completion of remediation if the student was eligible to receive the LIFE Scholarship upon high school graduation. If the student requires more than one academic year of remedial/developmental coursework, then he/she will not be eligible for the LIFE Scholarship the term after completion of remediation. If the student was not eligible for the Scholarship upon high school graduation, the student must meet the conditions set forth in Section J below in order to gain the LIFE Scholarship.

J. Students who do not meet the scholarship eligibility requirements upon high school graduation and enroll in remedial/developmental courses during a maximum of two terms at an eligible two-year institution or technical college, and who enroll in fewer than twelve credit hours of non-remedial/developmental courses, must meet the scholarship eligibility requirements (earn a 3.0 "LIFE GPA" and earn an average of thirty credit hours for the academic year) at the end of the first year of enrollment in non-remedial/developmental courses to be eligible to receive the scholarship for the second year of enrollment in non-remedial/developmental courses. Credit hours earned during the student's first two term(s) of remedial/developmental enrollment will not be used to determine remaining Scholarship eligibility at the completion of remediation unless the student has completed at least twelve credit hours of non-remedial/developmental coursework each term of enrollment.

K. Students receiving a LIFE Scholarship are not eligible to receive a Palmetto Fellows Scholarship, SC HOPE Scholarship or Lottery Tuition Assistance in the same academic year.

L. Students who have already been awarded their first bachelor's degree or graduate degree are not eligible to receive the LIFE Scholarship. In cases where students are enrolled in a program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree, which will be the students' first academic degree awarded, the students must maintain their undergraduate status in order to receive a LIFE Scholarship and a LIFE Scholarship Enhancement each academic term, with the exception of students majoring in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master's of Science in Physician Assistant Studies Program, Master's of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina.

M. All documents required for determining LIFE Scholarship eligibility must be submitted to the institution by their established deadline(s). Students must submit official transcripts from all previous and current institutions, which provide evidence to calculate the "LIFE GPA," determine initial college enrollment and earned annual credit hour requirement. Students that complete coursework at another institution at any time during the academic year (fall, spring, summer) must submit an official transcript to the home institution at the end of the academic year to determine eligibility for the LIFE Scholarship.

N. First-time entering freshmen who attended out-of-state preparatory high schools or graduated from a SC high school prior to the full implementation of the Uniform Grading Policy must have their high school transcript converted to the UGP in order to qualify for the LIFE Scholarship.

O. To be eligible for a LIFE Scholarship Enhancement each academic year, the student must:

84 FINAL REGULATIONS

1. Meet all of the eligibility requirements at the end of each academic year to receive a LIFE Scholarship as stipulated by state law and regulation and be a recipient of LIFE Scholarship funds at the time of LIFE Scholarship Enhancement disbursement. The student must receive the underlying LIFE Scholarship;

2. Be enrolled as a full-time, degree-seeking student in a declared major of science or mathematics in an eligible program that is approved and assigned a CIP code by the Commission on Higher Education at the time of disbursement of LIFE Scholarship Enhancement funds. Eligible programs include degrees awarded in math and science fields, computer science or informational technology, engineering, science education, math education and healthcare and related disciplines including medicine and dentistry. The student must meet all requirements for satisfactory academic progress towards completion of the declared major as established by the policies of both the institution and the academic department in which the student is enrolled;

3. Be enrolled at an eligible four-year public or independent institution located in South Carolina;

4. Effective for the 2007-08 academic year only, all students who are enrolled at a four-year institution as a sophomore, junior or senior must meet the continued eligibility requirements of earning a minimum average of 30 credit hours and a minimum 3.0 LIFE GPA as stipulated by law and regulation for the LIFE Scholarship by the end of each academic year, be a recipient of LIFE Scholarship funds, and be enrolled as a full-time, degree-seeking student in a declared major of science or mathematics in an eligible program that is approved and assigned a CIP code by the Commission on Higher Education at the time of disbursement of LIFE Scholarship Enhancement funds. These students may continue to receive the LIFE Scholarship Enhancement for their remaining terms of eligibility for the LIFE Scholarship. To be awarded a LIFE Scholarship Enhancement each year, these students must meet all requirements for the LIFE Scholarship and be enrolled as a full-time, degree-seeking student in a declared major of science or mathematics in an eligible program that is approved and assigned a CIP code by the Commission on Higher Education at the time of disbursement of LIFE Scholarship Enhancement funds;

5. Beginning with the Fall 2007 freshman class and thereafter, all students must have successfully completed a total of at least fourteen credit hours of instruction in mathematics and life and physical science courses, in any combination, by the end of the student's first year of enrollment in college (based on initial date of college enrollment). For purposes of meeting the required minimum level of instruction in mathematics and life and physical science courses during a student's first year, Exempted Credit Hours placed on the student's official college transcript by the institution at which they were earned, College Level Examination Program (CLEP), Dual Enrollment, Pass/Fail courses with a grade of "Pass" (only), Satisfactory/Unsatisfactory courses with a grade of "Satisfactory" (only), International Baccalaureate (IB) courses and Advanced Placement (AP) courses in mathematics and life and physical sciences taken in high school in which the student scored a three or more on the advanced placement test and received college credit may count toward the fulfillment of this minimum requirement. The Commission will issue a list of eligible courses by CIP code for determining eligible coursework to meet the fourteen credit hour requirement. Remedial/developmental, continuing education, non-degree credit coursework and credit hours earned for courses taken after the end of the student's first year of college enrollment cannot be used to meet the specified minimum fourteen credit hour course level requirement to gain eligibility to receive the LIFE Scholarship Enhancement;

6. Meet the continued eligibility requirements for the LIFE Scholarship of a minimum 3.0 LIFE GPA and a minimum average of 30 credit hours by the end of each academic year;

7. Be in the second, third or fourth year of full-time enrollment (based on initial date of college enrollment after high school graduation) at an eligible four-year public or independent institution in South Carolina. Students enrolled full-time in an eligible, approved five-year degree program may also be eligible to receive a LIFE Scholarship Enhancement in their fifth year of college enrollment (based on initial date of college enrollment); and

8. Students who initially enroll in college mid-year (i.e., spring term) as a freshman and meet the requirements under Section 62-1200.10 may be eligible to receive a LIFE Scholarship Enhancement at the beginning of the spring term of the next academic year (i.e., beginning with the third consecutive term of full-time enrollment based on initial date of college enrollment). The student must earn a minimum average of 15 credit hours and a 3.0 LIFE GPA to be awarded a LIFE Scholarship the following academic year and a minimum average of 30 credit hours by the end of the first academic year (i.e., by the end of the fall term or second consecutive term of full-time enrollment based on initial date of college enrollment) of enrollment to receive a LIFE Scholarship Enhancement beginning the spring term of the second, third and/or fourth year of college enrollment.

P. The LIFE Scholarship and LIFE Scholarship Enhancement are to be annual awards. Half of the Scholarship and Enhancement funds are to be disbursed in the fall and half are to be disbursed in the spring. In the cases where students who initially enroll in college mid-year (i.e., spring term) as a freshman and meet the requirements under Sections 62-1200.10 (O) and 62-1200.15 (C), such student shall be awarded the LIFE Scholarship Enhancement one year after initial college enrollment (i.e., spring term). Students who change their major from an ineligible degree program to an eligible degree program during the same academic year shall not receive the LIFE Scholarship Enhancement until the beginning of the next academic year (i.e., fall term). Students who change their major from an eligible degree program to an ineligible degree program during the same academic year may continue to receive the LIFE Scholarship Enhancement during the current academic year; however, the student cannot be awarded the LIFE Scholarship Enhancement the next academic year of enrollment in an ineligible degree program.

62-1200.15. Continued Eligibility: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Students must meet the following criteria to renew eligibility for the LIFE Scholarship:

1. Continue to meet all eligibility requirements as stated in the "Student Eligibility" Section;
2. Earn at least a 3.0 "LIFE GPA" by the end of the academic year; and
3. Meet the annual credit hour requirement (or its equivalent) by the end of the academic year based on initial college enrollment:
 - (a) earn a minimum of 30 (or the equivalent) credit hours if entering the second year; or
 - (b) earn a minimum of 60 (or the equivalent) credit hours if entering the third year; or
 - (c) earn a minimum of 90 (or the equivalent) credit hours if entering the fourth year; or
 - (d) earn a minimum of 120 (or its equivalent) credit hours if entering the fifth year of an approved five-year bachelor's degree program.

B. Students who meet the continued eligibility requirements by the end of the spring term and who enroll in Maymester or summer term will not be eligible to receive the LIFE Scholarship if their cumulative grade point average falls below the minimum 3.0 "LIFE GPA" requirement by the end of the summer term.

C. Students who are LIFE eligible upon high school graduation and initially enroll in college mid-year (spring term) may be eligible to receive the LIFE Scholarship the next academic year, if the student earns a minimum of fifteen (15) credit hours and a 3.0 "LIFE GPA" at the end of the academic year. For subsequent years, the student must meet the annual credit hour requirement and 3.0 LIFE GPA for renewal:

- (a) earn a minimum of 45 (or the equivalent) credit hours if entering the fourth semester based on initial college enrollment; or

86 FINAL REGULATIONS

(b) earn a minimum of 75 (or the equivalent) credit hours if entering the sixth semester based on initial college enrollment; or

(c) earn a minimum of 105 (or the equivalent) credit hours if entering the eighth semester based on initial college enrollment; or

(d) earn a minimum of 135 (or its equivalent) credit hours if entering the tenth semester of an approved five-year bachelor's degree program based on initial college enrollment.

Students who fail to meet the initial academic eligibility criteria to receive the LIFE Scholarship upon high school graduation, and who initially enroll in college mid-year (spring term) may be eligible to receive the LIFE Scholarship beginning in their second Fall term of college attendance at an eligible institution, if the student earns a minimum of forty-five (45) credit hours and a 3.0 "LIFE GPA" by the end of the prior academic year. The student may be eligible to receive the maximum number of terms of eligibility based on initial college enrollment.

D. Students must meet the following criteria to renew eligibility for the LIFE Scholarship Enhancement:

1. Continue to meet all eligibility requirements as stated in the "Student Eligibility: LIFE Scholarship and the LIFE Scholarship Enhancement" Section;

2. Be a recipient of LIFE Scholarship funds at the time of LIFE Scholarship Enhancement disbursement; and

3. Be enrolled full-time at an eligible four-year public or independent institution as a declared major in an eligible science or mathematics program as stipulated under Section 62-1200.10.

E. Students who meet the continued eligibility requirements by the end of the spring term and who enroll in Maymester or summer term will not be eligible to receive the LIFE Scholarship Enhancement if their cumulative grade point average falls below the minimum 3.0 "LIFE GPA" requirement by the end of the summer term resulting in ineligibility for a LIFE Scholarship. Students who do not meet the continued eligibility requirements to receive the LIFE Scholarship cannot receive a Scholarship or LIFE Scholarship Enhancement for the following academic year.

F. The student may be eligible to receive the maximum number of terms of eligibility (i.e., six consecutive terms) for a LIFE Scholarship Enhancement starting the second year of college enrollment (based on initial date of college enrollment after high school graduation).

62-1200.20. Terms of Eligibility: LIFE Scholarship and LIFE Scholarship Enhancement.

A. The maximum number of terms of eligibility is based on the student's initial college enrollment with the exception of the summer term immediately prior to the student's initial college enrollment and up to one academic year of full-time enrollment in remedial/developmental coursework.

B. Students may receive a LIFE Scholarship for a maximum of two terms for a one-year educational program, four terms for an associate's degree program or at least a two-year program that is acceptable for full credit towards a bachelor's degree, eight terms (or its equivalent) towards the first bachelor's degree or program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree program or ten consecutive terms towards an approved five-year bachelor's degree program. (See chart in "C" below.) In cases where students are enrolled in a program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree, which will be the students' first academic degree awarded, such students must maintain their undergraduate status to be awarded the LIFE Scholarship and the LIFE Scholarship Enhancement each academic term, with the

exception of students majoring in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master's of Science in Physician Assistant Studies Program, the Master's of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina. Students who have already been awarded their first bachelor's degree or graduate degree are not eligible to be awarded a LIFE Scholarship or a LIFE Scholarship Enhancement. Students are eligible to receive the LIFE Scholarship for a maximum of eight consecutive terms (or its equivalent) and a LIFE Scholarship Enhancement for a maximum of six consecutive terms (or its equivalent), as long as all other eligibility requirements are met and the program is approved by the Commission on Higher Education.

C. If a student pursues the following program, the terms of eligibility for the LIFE Scholarship will be based upon the student's initial college enrollment:

		Average Credit Hours Earned at the End of Each Academic Year				
Degree/Program	Maximum Terms of Eligibility	1st Year = 30 credit hours	2nd Year = 60 credit hours	3rd Year = 90 credit hours	4th Year = 120 credit hours	Fifth Year = 150 credit hours
		Terms of Remaining Eligibility at the End of Each Academic Year				
One-year Certificate/Diploma	2	0	0	0	0	0
Associate/Two-year Program	4	2	0	0	0	0
Bachelor/First Professional	8	6	4	2	0	0
Approved Five-year Bachelor	10	8	6	4	2	0

D. The maximum number of terms of eligibility for a LIFE Scholarship Enhancement is based on the student's continued eligibility for a LIFE Scholarship and beginning with the student's second year of college enrollment (based on initial date of college enrollment), with the exception of the summer term immediately prior to the student's initial college enrollment and up to one academic year of full-time enrollment in remedial/developmental coursework.

E. Students may receive a LIFE Scholarship Enhancement for a maximum of six consecutive terms (i.e., three academic years) for a first bachelor's degree in an eligible program or an eligible program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree program, and eight consecutive terms (i.e., four academic years) towards an approved five-year bachelor's degree program and six consecutive terms towards a 3 plus 2 program. Students must be enrolled in an eligible four-year public or independent institution in South Carolina as a declared major in an eligible science or mathematics major or an eligible program that is approved and assigned a CIP code by the Commission on Higher Education. In cases where students are enrolled in a program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree, which will be the students' first academic degree awarded, students must maintain their undergraduate status to be awarded the LIFE Scholarship and the LIFE Scholarship Enhancement, with the exception of students declaring a major in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master's of Science in Physician Assistant Studies Program, the Master's of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina. Students who have already been awarded their first bachelor's degree or graduate degree are not eligible to be awarded a LIFE Scholarship or a LIFE Scholarship Enhancement. Students are eligible to receive a LIFE Scholarship for a maximum of eight consecutive terms (or its equivalent) and a LIFE Scholarship Enhancement for a maximum of six consecutive terms (or its equivalent) towards an undergraduate degree, as long as all other eligibility requirements are met and the program is approved by the Commission on Higher Education. Students enrolled in an approved five-year degree program may be eligible to receive a LIFE Scholarship for a fifth year of full-time, undergraduate work and a LIFE Scholarship Enhancement for a fourth year of full-time undergraduate coursework.

88 FINAL REGULATIONS

62-1200.25. Regaining or Earning Eligibility: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Students who were U.S. Citizens or legal permanent residents, and South Carolina residents at the time of high school graduation and college enrollment, but were not initially eligible upon high school graduation or failed to meet the continued eligibility requirements can earn or regain eligibility for the LIFE Scholarship if they:

1. Meet all eligibility requirements as stated in the “Student Eligibility” Section;
2. Earn at least a 3.0 “LIFE GPA” by the end of the academic year;
3. Meet the annual credit hour requirement by the end of the academic year based on Initial college enrollment:
 - (a) earn a minimum of 30 (or the equivalent) credit hours if entering the second year; or
 - (b) earn a minimum of 60 (or the equivalent) credit hours if entering the third year; or
 - (c) earn a minimum of 90 (or the equivalent) credit hours if entering the fourth year; or
 - (d) earn a minimum of 120 (or its equivalent) credit hours if entering the fifth year of an approved five-year bachelor’s degree program.
 - (e) earn the required number of credit hours as stated in Section 62-1200. 15 (C) for students who initially enroll mid-year.

B. A student who has earned a GED diploma may be eligible to earn the LIFE Scholarship at the end of the first academic year of a non-GED program. The student must meet the annual credit hour requirement (or equivalent) and a 3.0 “LIFE GPA” at the end of the first academic year. To qualify for subsequent years, the student must meet all eligibility requirements as stated in Section A above.

C. A student who has graduated from a homeschool association not approved by the state of South Carolina may be eligible to earn the LIFE Scholarship at the end of the first academic year based on initial college enrollment. The student must meet the annual credit hour requirement (or equivalent) and a 3.0 “LIFE GPA” at the end of the first academic year. The student may also qualify in subsequent years by meeting all eligibility requirements as stated in Section A above.

D. Students who have met the initial eligibility criteria for the LIFE Scholarship and initially enroll in college mid-year (spring term) may be eligible to receive the LIFE Scholarship the next academic year, if the student earns a minimum of fifteen credit hours and earns a cumulative 3.0 “LIFE GPA” at the end of the academic year. For subsequent years, the student must meet the annual credit hour requirement for renewal (refer to Section 62-1200. 15 (C) for the required number of credit hours for mid-year students). The student may be eligible to receive the maximum number of terms of eligibility based on initial college enrollment.

E. Students who were not initially eligible for a LIFE Scholarship (as stated in this section) upon high school graduation or failed to meet the continued eligibility requirements for a LIFE Scholarship may earn or regain eligibility for a LIFE Scholarship Enhancement if they:

1. Meet all eligibility requirements as stipulated in Section 62-1200.10 and are recipients of a LIFE Scholarship;
2. Earn at least a 3.0 “LIFE GPA” and meet the annual credit hour requirement by the end of each academic year based on initial college enrollment to receive a LIFE Scholarship; and

3. Be a recipient of LIFE Scholarship funds at the time of LIFE Scholarship Enhancement funds disbursement.

62-1200.30. Transfer Students: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Students must meet all eligibility requirements for a LIFE Scholarship and for a LIFE Scholarship Enhancement as stipulated in Section 62-1200.10.

B. Transfer students who receive the LIFE Scholarship and transfer mid-year to another institution may be eligible to receive the Scholarship for the spring term if they met the eligibility requirements at the end of the previous academic year (See “Transfer Student” Section B for eligibility requirements):

1. Freshmen who transfer mid-year to the same type of institution (two-year to two-year or four year to four-year) must have met the Scholarship requirements of the respective institution at the time of initial college enrollment; or

2. Freshmen who transfer mid-year from a two-year to a four-year institution must meet the eligibility requirements of a first-time entering freshmen enrolling at a four-year institution; or

3. Freshmen who transfer mid-year from a four-year to a two-year institution must meet the eligibility requirements of a first-time entering freshmen enrolling at a two-year institution.

C. For determining initial eligibility for transfer students for the first-time at an eligible public or independent institution in SC, students must meet the following requirements at the end of the previous academic year:

1. Earn a cumulative 3.0 LIFE GPA; and

2. Meet one of the following:

(a) earn a minimum of thirty credit hours (or equivalent) at all institutions if entering the second year of college based on initial college enrollment; or

(b) earn a minimum of sixty credit hours (or equivalent) at all institutions if entering the third year of college based on initial college enrollment; or

(c) earn a minimum of ninety credit hours (or equivalent) at all institutions if entering the fourth year of college based on initial college enrollment; or

(d) earn a minimum of one hundred twenty credit hours (or equivalent) at all institutions if entering the fifth year of college in an approved five-year bachelor’s degree program based on initial college enrollment; or

(e) earn the required number of credit hours as stated in Section 62-1200.15 (C) for students who initially enroll mid-year based on initial college enrollment.

D. For eligibility in subsequent years, transfer students must earn a 3.0 LIFE GPA and meet the annual credit hour requirement (or its equivalent) at all eligible institutions by the end of the academic year based on initial college enrollment.

E. The institution where the student is transferring will determine the classification of the entering transferring student based on initial college enrollment and will use this classification to determine the remaining terms of eligibility in compliance with the “Terms of Eligibility” Section.

90 FINAL REGULATIONS

F. Students transferring to an eligible public or independent four-year South Carolina institution may be eligible to receive a LIFE Scholarship Enhancement if they meet the requirements under Section 62-1200.10 and:

1. The student is a LIFE Scholarship recipient and transferring from an out-of-state institution or from an in-state four-year institution to an eligible public or independent four-year institution at the end of the academic year. The student must earn a minimum 3.0 LIFE GPA and a minimum average of 30 credit hours by the end of each academic year of enrollment (based on initial date of college enrollment) to receive a LIFE Scholarship Enhancement beginning the fall term of the second, third and/or fourth year of enrollment. Transfer students enrolled full-time in an eligible, approved five-year degree program may be eligible to receive a LIFE Scholarship Enhancement in their fifth year of college enrollment (based on initial date of college enrollment after high school graduation).

2. The student is a LIFE Scholarship recipient and transferring from an out-of-state institution or from an in-state four-year institution to an eligible public or independent four-year institution mid-year (i.e., spring term). The student may be eligible to receive a LIFE Scholarship Enhancement for the spring term of the second, third or fourth year of enrollment, if the student earned a 3.0 LIFE GPA and minimum average of 30 credit hours by the end of each academic year of enrollment (based on initial date of college enrollment). Transfer students enrolled full-time in an eligible, approved five-year degree program may be eligible to receive a LIFE Scholarship Enhancement in their fifth year of college enrollment (based on initial date of college enrollment after high school graduation).

3. The student is a LIFE Scholarship recipient and transferring from a two-year institution to an eligible public or independent four-year institution at the end of the academic year. The student must earn a 3.0 LIFE GPA and a minimum average of 30 credit hours by the end of each academic year of enrollment (based on initial date of college enrollment) to receive a LIFE Scholarship Enhancement beginning the fall term of the second, third and/or fourth year of enrollment. Transfer students enrolled full-time in an eligible, approved five-year degree program may be eligible to receive a LIFE Scholarship Enhancement in their fifth year of college enrollment (based on initial date of college enrollment after high school graduation).

4. The student is a LIFE Scholarship recipient and transferring from a two-year institution to an eligible public or independent four-year institution mid-year (i.e., spring term). The student may be eligible to receive a LIFE Scholarship Enhancement for the spring term of the second, third or fourth year of initial college enrollment, if the student earned a 3.0 LIFE GPA and a minimum average of 30 credit hours by the end of each academic year of enrollment (based on initial date of college enrollment). Transfer students enrolled full-time in an eligible, approved five-year degree program may be eligible to receive a LIFE Scholarship Enhancement in their fifth year of college enrollment (based on initial date of college enrollment after high school graduation).

62-1200.35. Students with Disabilities: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Students who qualify under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 must meet all eligibility requirements as defined in “Student Eligibility, Continued Eligibility, Regaining or Earning Eligibility, or Transfer Students” Sections except for the full-time enrollment requirement, if approved by the Disability Services Provider at the home institution. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973. It is the responsibility of the transfer student to provide written documentation concerning services from the previous institutional Disability Services Provider.

B. The institutional Disability Services Provider must provide written documentation to the Office of Financial Aid prior to each academic year verifying that the student is approved to be enrolled in less than full-time status or earn less than the required annual credit hours. The institution is responsible for retaining appropriate documentation according to the “Program Administration and Audits” Section.

C. For renewal, students who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 must meet all requirements as stated in the "Continued Eligibility" Section, except that if a student does not meet the annual credit hour requirement, the student must have been approved by the institutional Disability Services Provider in the prior academic year to be enrolled in less than "full-time" status or less than the required thirty credit hours. Each academic year, students must complete the required number of credit hours approved by the institutional Disability Services Provider for LIFE Scholarship and LIFE Scholarship Enhancement renewal and earn a 3.0 "LIFE GPA." Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

D. Students who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 may receive the maximum number of terms of eligibility as stated in the "Terms of Eligibility" Section.

E. In order to be eligible for the LIFE Scholarship and LIFE Scholarship Enhancement, students who no longer qualify under ADA and Section 504 of the Rehabilitation Act of 1973 must comply with all requirements set forth under the "Student Eligibility, Continued Eligibility, Regaining or Earning Eligibility, or Transfer Students" Sections.

62-1200.40. Enrollment in Internships, Cooperative Work Programs, Travel Study Programs and National and International Student Exchange Programs: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Students enrolled in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as full-time transfer credit are eligible to receive LIFE Scholarship and LIFE Scholarship Enhancement funds during the period in which the student is enrolled in such programs. Students will be required to meet the continued eligibility requirements.

B. Eligible students may use the appropriated portion of LIFE Scholarship and LIFE Scholarship Enhancement funds for internships, cooperative work programs, travel study programs or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as full-time transfer credit. LIFE Scholarship and LIFE Scholarship Enhancement funds must be paid directly to the student's account at the home institution and cannot exceed the cost-of-attendance at the home institution or the cost-of-attendance at the host institution, whichever is less. The Commission on Higher Education will not transfer LIFE Scholarship or LIFE Scholarship Enhancement funds directly to the institution where the student will participate in internships, cooperative work programs, travel study programs or National or International Student Exchange Programs. The institution is responsible for LIFE Scholarship and LIFE Scholarship Enhancement funds according to the "Policies and Procedures for Awarding" Section.

C. Students who enroll in one academic term at the home institution and also enroll in an internship, cooperative work program, travel study program or National or International Student Exchange Program that are approved by the home institution and that do not award full-time transfer credit during the same academic year, must complete fifteen credit hours and earn a 3.0 "LIFE GPA" by the end of the academic year to be eligible for LIFE Scholarship and LIFE Scholarship Enhancement renewal for the next academic year. Students who did not use the entire eligibility for LIFE Scholarship and LIFE Scholarship Enhancement funds during this period shall be allowed to receive LIFE Scholarship and LIFE Scholarship Enhancement funds during the succeeding summer or at the end of the maximum terms of eligibility based on their initial college enrollment date (provided the student meets continued eligibility requirements).

D. For students enrolled in an internship, cooperative work program, travel study program or National or International Student Exchange Program during the entire academic year that is approved by the home institution but does not award full-time transfer credit for the entire academic year, LIFE Scholarship and LIFE Scholarship Enhancement renewal for the next academic year will be based on the prior year's eligibility. Students who did not use the entire eligibility for LIFE Scholarship and LIFE Scholarship Enhancement funds during this period shall be allowed to receive LIFE Scholarship and LIFE Scholarship Enhancement funds

92 FINAL REGULATIONS

during the succeeding summer or at the end of the maximum terms of eligibility based on initial college enrollment (provided the student meets the continued eligibility requirements).

E. Students enrolled in an internship, a cooperative work program, a travel study program or national or international student exchange program during the academic year that is approved by the home institution and did not use the entire eligibility for LIFE Scholarship and LIFE Scholarship Enhancement funds during this period shall be allowed to receive LIFE Scholarship and LIFE Scholarship Enhancement funds during the succeeding summer or at the end of the maximum terms of eligibility based on initial college enrollment (provided the student meets the continued eligibility requirements). In order to receive LIFE Scholarship and LIFE Scholarship Enhancement funds for summer school at the home institution, students must enroll in twelve credit hours during the summer. In order to maintain eligibility for the next academic year for students who only attend summer school at the home institution, the student must earn twelve credit hours during the academic year. For students who enroll in summer school and one other term of the academic year at the home institution, the student must earn a total of twenty-seven credit hours (or its equivalent) for the academic year. The student must meet all eligibility requirements as specified in the "Student Eligibility" and "Continued Eligibility" Sections, except for the completion of the annual credit hour requirement for the academic year.

F. The home institution will be responsible for obtaining official certification of the student's grade point average, credit hours earned, and satisfactory academic progress for the purposes of determining eligibility for LIFE Scholarship and LIFE Scholarship Enhancement renewal for the next academic year.

62-1200.45. Military Mobilization: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Service members who are enrolled in college and are affected by military mobilizations will not be penalized for the term they are required to withdraw after the full refund period based on the institutional policies and procedures. Institutions are strongly encouraged to provide a full refund of required tuition, fees and other institutional charges or to provide a credit in a comparable amount against future charges for students who are forced to withdraw as a result of military mobilization. Additionally, the term(s) that the service member is mobilized will not count against the maximum terms of eligibility. The service member shall be allowed to receive the unused terms for the LIFE Scholarship and LIFE Scholarship Enhancement while mobilized during the succeeding summer or at the end of the maximum terms of eligibility based on initial college enrollment (provided the service member meets continued eligibility requirements). The service member must re-enroll in an eligible institution within twelve months upon their demobilization and provide official documentation to verify military deployment to the institutional Financial Aid Office upon re-enrollment to receive LIFE Scholarship and LIFE Scholarship Enhancement. Reinstatement of the LIFE Scholarship and the LIFE Scholarship Enhancement will be based upon the service member's eligibility at the time he/she was mobilized. If the student re-enrolls after the twelve month period, the service member must submit an Appeal Application to the Commission on Higher Education by the established deadline in order to be considered for reinstatement.

B. Service members who are enrolled in college and are mobilized for an entire academic year may renew the LIFE Scholarship and the LIFE Scholarship Enhancement for the next academic year, if they met the eligibility requirements at the end of the prior academic year. Service members who did not use the LIFE Scholarship and LIFE Scholarship Enhancement funds/terms of eligibility during this period due to military mobilization shall be allowed to receive the LIFE Scholarship and LIFE Scholarship Enhancement funds during the succeeding summer or at the end of the maximum terms of eligibility based on initial college enrollment (provided the service member meets continued eligibility requirements).

C. Service members who are enrolled in college and are mobilized for one academic term must complete fifteen credit hours and earn a 3.0 "LIFE GPA" by the end of the academic year to be eligible for LIFE Scholarship and LIFE Scholarship Enhancement renewal for the next academic year. Service members who did not use LIFE Scholarship and LIFE Scholarship Enhancement funds/terms of eligibility during this period shall be allowed to receive the LIFE Scholarship and LIFE Scholarship Enhancement during the succeeding

summer or at the end of the maximum terms of eligibility based on initial college enrollment (provided the service member meets the continued eligibility requirements).

D. In order to receive the LIFE Scholarship and the LIFE Scholarship Enhancement for summer school for the unused term(s), the service member must enroll in twelve credit hours during the succeeding summer term at the home institution. For service members who enroll in summer school and one other term of the academic year, the service member must earn a total of twenty-seven credit hours (or its equivalent) for the academic year. In order to maintain eligibility for the next academic year for service members who only attend summer school, the member must earn twelve credit hours during the academic year. The service member must meet all eligibility requirements as specified in the "Student Eligibility" and "Continued Eligibility" Sections for the LIFE Scholarship and LIFE Scholarship Enhancement, except for the completion of the thirty credit hour requirement for the academic year.

E. The home institution will be responsible for receiving verification of military mobilization status, "LIFE GPA," credit hours earned and terms of eligibility based on the service member's initial college enrollment and eligibility for LIFE Scholarship and LIFE Scholarship Enhancement renewal for the next academic year.

F. Service members of the United States Armed Forces will not be penalized for any credit hours earned while on military mobilization. The credit hours earned will not count against the terms of eligibility, but will be used toward the annual credit hour requirement for the LIFE Scholarship and towards the minimum fourteen credit hour course level requirement for the LIFE Scholarship Enhancement.

62-1200.50. LIFE Scholarship Refunds and Repayments.

A. In the event a student who has been awarded a LIFE Scholarship and LIFE Scholarship Enhancement withdraws, is suspended from the institution, or drops below full-time enrollment status during any term of the academic year, institutions must reimburse the LIFE Scholarship Program for the amount of the LIFE Scholarship and LIFE Scholarship Enhancement for the term in question pursuant to the refund policies of the institution. Collection is the responsibility of the institution.

B. In the event a student withdraws or drops below full-time status after the institution's refund period and therefore must pay tuition and fees for full-time enrollment, the LIFE Scholarship and LIFE Scholarship Enhancement may be retained pursuant to the refund policies of the institution.

62-1200.55. Appeals Procedures: LIFE Scholarship and LIFE Scholarship Enhancement.

A. The Commission on Higher Education shall define the appeals procedures.

B. Students who did not meet the continued eligibility requirements for the LIFE Scholarship at the end of the academic year due to an extenuating circumstance may request an appeal with the Commission on Higher Education.

C. The Commission on Higher Education will allow a student to submit only one appeal each academic year based on an extenuating circumstance.

D. A completed appeal's application must be filed with the Commission on Higher Education by the established deadline of the academic year the scholarship is requested. The student must provide a completed application for appeal, a letter requesting an appeal describing the extenuating circumstance, official transcripts from all prior institutions, and any other supporting documentation to substantiate the basis for the appeal. It is the responsibility of the student to ensure that all documents necessary to file an appeal are received at the Commission by the established deadline. Commission staff will not contact the student regarding missing or incomplete appeals documentation. Failure to submit a completed appeal's application by the required deadline(s) will result in forfeiture of the scholarship.

94 FINAL REGULATIONS

E. The LIFE Scholarship shall be suspended during the appeal period, but will be awarded retroactively if the appeal is granted.

F. Appeal Guidelines apply only to the LIFE Scholarship, not the LIFE Scholarship Enhancement. Students cannot appeal solely on the basis of a loss of a LIFE Scholarship Enhancement. However, students who appeal and are awarded the LIFE Scholarship under this section may be eligible to receive the LIFE Scholarship Enhancement.

G. The Appeals Committee's decision is final.

62-1200.60. Institutional Policies and Procedures for Awarding: LIFE Scholarship and LIFE Scholarship Enhancement.

A. All eligible institutions are responsible for ensuring that each student has met the criteria based on state law and regulation to determine eligibility for the LIFE Scholarship and the LIFE Scholarship Enhancement as stipulated in Section 62-1200.10 and Section 62-1200.15.

B. Each institution is responsible for reviewing all students based on the "LIFE GPA" calculation below to determine eligibility for the LIFE Scholarship. Institutions must use official transcripts from all eligible institutions for each student and the steps in Section E below.

C. The institution must use grades earned at all eligible institutions during any term (fall, spring, and/or summer) for calculating a "LIFE GPA" at the end of the academic year.

D. The student must certify by submitting a signed affidavit that he/she is responsible for submitting transcripts from all previous and current eligible institutions. Students who complete coursework at another institution at anytime during the academic year (fall, spring, summer) must submit an official transcript to the home institution at the end of the academic year to determine eligibility for the LIFE Scholarship.

E. Steps for calculating a "LIFE GPA:"

1. Convert all grades earned at an eligible institution to a 4.0 scale based on each institution's grading policy where the grades were earned = Grade Points

2. Multiply the grade points by attempted credit hours = Quality Points (QP)

3. Divide the total quality points by the total number of attempted credit hours = LIFE GPA

4. "LIFE GPA" Formula:
$$\frac{\text{Grade Points} \times \text{Attempted Credited Hours} = \text{QP}}{\text{Total Attempted Credit Hours}} = \text{LIFE GPA}$$

F. The "LIFE GPA" must include all grades earned at eligible institutions, including courses that do not transfer based on the institution's policy and college courses taken while in high school.

G. The "LIFE GPA" must not include attempted credit hours earned for continuing education courses, non-degree credit courses for an associate's degree or higher and remedial/developmental courses.

H. The student must meet the annual credit hour requirement at the end of the academic year based on initial college enrollment as defined in the "Continued Eligibility," "Regaining or Earning Eligibility" or "Transfer Students" Sections.

I. LIFE Scholarship awards are to be used only for payment toward the cost-of-attendance as established by Title IV Regulations. Eligible four-year public and independent institutions shall identify award amounts up to

the cost-of-tuition for thirty credit hours, not to exceed four thousand seven hundred dollars, plus a three hundred dollar book allowance (maximum \$5,000 including cost-of-tuition plus book allowance) per academic year. Eligible two-year public or technical institutions shall identify award amounts, which cannot exceed the cost-of-tuition for thirty credit hours plus a three hundred dollar book allowance (maximum \$5,000 including cost-of-tuition plus book allowance) per academic year. For students enrolled at eligible two-year independent institutions, the award amount shall not exceed the maximum cost-of-tuition at the two-year USC regional institutions plus a three hundred dollar book allowance (not to exceed a maximum award amount of \$5,000 including cost-of-tuition plus book allowance) per academic year. Half shall be awarded during the fall term and half during the spring term (or its equivalent), assuming continued eligibility. The LIFE Scholarship in combination with all other gift aid, including Federal, State, private and institutional funds, shall not exceed the cost-of-attendance as defined in Title IV regulations for any academic year.

J. The LIFE Scholarship Enhancement is an annual award. Half of the funds are to be disbursed in the fall term and half to be disbursed in the spring term. Students who change their major from an ineligible degree program to an eligible degree program during the same academic year shall not receive the LIFE Scholarship Enhancement until the beginning of the next academic year (i.e., fall term). Students who change their major from an eligible degree program to an ineligible degree program during the same academic year may continue to receive the LIFE Scholarship Enhancement during the current academic year; however, the student cannot be awarded the LIFE Scholarship Enhancement the next academic year of enrollment in an ineligible degree program.

K. The institution shall specify exact LIFE Scholarship Enhancement amounts to be used only for payment toward the cost-of-attendance as established by Title IV Regulations at eligible four-year public and independent institutions in South Carolina. The annual LIFE Scholarship Enhancement award amount shall not exceed \$2,500.00 per academic year for no more than three years of instruction if enrolled in an eligible four-year degree program or for not more than four years of instruction if enrolled in an eligible approved five-year degree program. Students enrolled in an eligible 3 plus 2 program shall receive a LIFE Scholarship for no more than four years of instruction and a LIFE Scholarship Enhancement for no more than three years of instruction. Half of the LIFE Scholarship Enhancement funds shall be awarded in the fall term and half during the spring term (or its equivalent), assuming continued eligibility. The LIFE Scholarship Enhancement in combination with all other gift aid, including Federal, State, private and institutional funds, shall not exceed the cost-of-attendance as defined in Title IV Regulations for any academic year.

L. In determining the amount awarded for the LIFE Scholarship Enhancement, all other sources of gift aid, including federal, State, private and institutional funds and the base LIFE Scholarship must be applied to the unmet total cost of attendance in accord with Title IV Regulations before calculating the LIFE Scholarship Enhancement amount and receiving the funds. Adjustments to the financial aid package will be made to the LIFE Scholarship Enhancement in accordance with prescribed Title IV Regulations in order to prevent an over award.

M. Students who have already been awarded a first bachelor's degree or graduate degree are not eligible to receive a LIFE Scholarship or a LIFE Scholarship Enhancement. Students enrolled in a program of study that is structured so as not to require a bachelor's degree and leads to a graduate degree as defined in the "Program Definitions" Section must maintain their undergraduate status in order to receive a LIFE Scholarship and a LIFE Scholarship Enhancement each academic term, with the exception of students majoring in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master's of Science in Physician Assistant Studies Program, Master's of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina.

N. Eligible institutions shall provide an award notification to eligible students that contains the terms and conditions of the LIFE Scholarship and the LIFE Scholarship Enhancement. Institutions will notify students and the SC Commission on Higher Education of any adjustments in LIFE Scholarship and LIFE Scholarship

96 FINAL REGULATIONS

Enhancement funds that may result from an over award, change in eligibility, change in the student's residency or change in financial status or other matters.

O. The institution must retain annual paper or electronic documentation for each LIFE Scholarship and LIFE Scholarship Enhancement award to include at a minimum:

1. Award notification
2. Institutional disbursement to student
3. Student's residency status
4. Refunds and repayments (if appropriate)
5. Enrollment and curriculum requirements
6. Verification of a 3.0 "LIFE GPA" and the required number of annual credit hours based on initial college enrollment
7. Affidavit documenting that the student: a) has never been convicted of any felonies and/or a second or subsequent alcohol/ drug-related misdemeanor offenses within the past academic year; b) understands that non-degree credit hours will not be used in calculating the "LIFE GPA" or credit hour requirements if they are enrolled in an associate's degree or higher; and c) must certify that they have submitted transcripts from all previous and current institutions attended
8. Institutional Student Information Record (ISIR) or affidavit documenting that the student is not in default or does not owe a refund or repayment on any state or federal financial aid
9. High school transcript(s) verifying graduation or home school completion date, grade point averages and class ranks (first-time entering freshmen) or GED or Adult Education High School Diploma
10. SAT or ACT scores (first-time entering freshmen)
11. Verification of student's disability from Institutional Disability Service Provider and verification of reduced course-load requirement (if appropriate)
12. Military mobilization orders (if appropriate)
13. Beginning with the 2007-08 freshman class and thereafter, all institutions must retain documentation verifying that students met the minimum fourteen credit hour course level requirement by the end of the first year of college enrollment for the LIFE Scholarship Enhancement.
14. Verification from academic department of enrollment in a declared major in an eligible degree program (LIFE and Palmetto Fellows Scholarship Enhancement purposes only)
15. Documentation from Registrar or Admissions office that student's final high school GPA has been calculated pursuant to a grading scale that is at least equal to the SC UGP (For students who are attempting to use a class rank from an out-of-state institution to qualify for the LIFE Scholarship).
16. Verification from the institution that lawful presence of the student in the US has been verified.

P. It is the institution's responsibility to ensure that only eligible students receive a LIFE Scholarship and LIFE Scholarship Enhancement award.

Q. Any student who has attempted to obtain or has obtained a LIFE Scholarship and a LIFE Scholarship Enhancement award through means of a willfully false statement or failure to reveal any material fact, condition, or circumstances affecting eligibility will be subject to applicable civil or criminal penalties, including loss of the LIFE Scholarship and the LIFE Scholarship Enhancement.

62-1200.65. Institutional Disbursements: LIFE Scholarship and LIFE Scholarship Enhancement.

A. Eligible four-year public and independent institutions shall award LIFE Scholarship amounts, which cannot exceed the cost-of-tuition for thirty credit hours a year, not to exceed four thousand seven hundred dollars, plus a three hundred dollar book allowance (maximum \$5,000 including cost-of-tuition plus book allowance) per academic year. Eligible two-year public or technical institutions shall award LIFE Scholarship amounts, which cannot exceed the cost-of-tuition for thirty credit hours plus a three hundred dollar book allowance (not to exceed a maximum award amount of \$5,000 including cost-of-tuition plus book allowance) per academic year. For students enrolled at eligible two-year independent institutions, the award amount for a LIFE Scholarship shall not exceed the maximum cost-of-tuition at the two-year USC regional institutions plus a three hundred dollar book allowance (not to exceed a maximum award amount of \$5,000 including cost-of-tuition plus book allowance) per academic year. Half of the LIFE Scholarship shall be awarded during the fall term and half during the spring term (or its equivalent), assuming continued eligibility. LIFE Scholarship funds cannot be disbursed during the summer or any interim sessions with the exception to disbursements that meet the requisites under the "Enrollment in Internships, Cooperative Work Programs, Travel Study Programs and National and International Student Exchange Programs" or "Military Mobilization" Sections. The LIFE Scholarship in combination with all other gift aid, including Federal, State, private and institutional funds, shall not exceed the cost-of-attendance as defined in Title IV regulations for any academic year.

B. Eligible four-year public and independent institutions only shall award LIFE Scholarship Enhancement amounts, which cannot exceed the cost-of-attendance for thirty credit hours a year, not to exceed \$2,500 per academic year. The LIFE Scholarship Enhancement cannot be disbursed during the summer or any interim sessions with the exception of disbursements that meet the requisites under the "Enrollment in Internships, Cooperative Work Programs, Travel Study Programs and National and International Student Exchange Programs" or "Military Mobilization" Sections. The LIFE Scholarship Enhancement in combination with all other gift aid, including Federal, State, private and institutional funds, shall not exceed the cost-of-attendance as defined in Title IV Regulations for any academic year.

C. The LIFE Scholarship and the LIFE Scholarship Enhancement may not be applied to a second bachelor's degree or a graduate degree program as defined in the "Program Definitions" Section. In the event of early graduation, the LIFE Scholarship and LIFE Scholarship Enhancement awards are discontinued. Students are eligible to receive the LIFE Scholarship for a maximum of eight consecutive terms (or its equivalent) and a LIFE Scholarship Enhancement for a maximum of six consecutive terms (or its equivalent) towards an undergraduate degree, as long as all other eligibility requirements are met and the program is approved by the Commission on Higher Education. In such cases where students are enrolled in a program of study that is structured so as not to require a bachelor's degree for acceptance into the program and leads to a graduate degree, which will be the students' first academic degree awarded, such students must maintain their undergraduate status to be awarded the LIFE Scholarship and the LIFE Scholarship Enhancement, with the exception of students majoring in the Doctor of Pharmacy Program at South University, the Doctor of Pharmacy Program at Presbyterian College, the Master's of Science in Physician Assistant Studies Program, the Master's of Science in Cytology and Biosciences Program and the Doctor of Pharmacy Program at the University of South Carolina-Columbia and the Medical University of South Carolina. Students who have already been awarded their first bachelor's degree or graduate degree are not eligible to be awarded a LIFE Scholarship or a LIFE Scholarship Enhancement. Students enrolled in an approved five-year degree program may be eligible to receive a LIFE Scholarship for a fifth year of full-time, undergraduate work and a LIFE Scholarship Enhancement for a fourth year of full-time undergraduate coursework.

98 FINAL REGULATIONS

D. In determining the amount awarded for the LIFE Scholarship Enhancement, all other sources of gift aid, including federal, State, private and institutional funds and the base LIFE Scholarship, must be applied to the unmet total cost-of-attendance in accord with Title IV Regulations before calculating the LIFE Scholarship Enhancement amount and receiving the funds. Adjustments to the financial aid package will be made to the base LIFE Scholarship and LIFE Scholarship Enhancement in accordance with prescribed Title IV Regulations in order to prevent an over award.

E. After the last day to register for each term of the academic year, the institution will verify enrollment of each recipient as a South Carolina resident who is a full-time, degree-seeking student. The institution must submit a request for LIFE Scholarship and LIFE Scholarship Enhancement funds and/or return of funds by the established deadline each term. In addition, a listing of all eligible recipients by identification numbers with award amounts for the term must be sent to the Commission on Higher Education. At this time any unused funds must be returned to the Commission on Higher Education immediately.

F. The Commission will disburse LIFE Scholarship and LIFE Scholarship Enhancement awards to the eligible institutions to be placed in each eligible student's account.

G. The student must be enrolled at the time of disbursement of LIFE Scholarship and LIFE Scholarship Enhancement funds as a full-time student at the home institution, and meet all requirements as established in the "Student Eligibility" Section for a LIFE Scholarship and the a LIFE Scholarship Enhancement. Students who are retroactively awarded must have been enrolled in a minimum of twelve credit hours (full-time) as a declared major in an eligible program under Section 62-1200.10 at the home institution at the time the LIFE Scholarship and LIFE Scholarship Enhancement would have been disbursed for that term.

H. The LIFE Scholarship and LIFE Scholarship Enhancement are to be annual awards. Half of the funds are to be disbursed in the fall term and half to be disbursed in the spring term. Students who change their major from an ineligible degree program to an eligible degree program during the same academic year shall not receive the LIFE Scholarship Enhancement until the beginning of the next academic year (i.e., fall term). Students who change their major from an eligible degree program to an ineligible degree program during the same academic year may continue to receive the LIFE Scholarship Enhancement during the current academic year; however, the student cannot be awarded the LIFE Scholarship Enhancement the next academic year of enrollment in an ineligible degree program.

62-1200.70. Program Administration and Audits: LIFE Scholarship and LIFE Scholarship Enhancement.

A. The South Carolina Commission on Higher Education shall be responsible for the oversight of functions (e.g., guidelines, policies, rules, regulation) relative to this program with participating institutions. The Commission on Higher Education shall be responsible for the allocation of funds, promulgation of guidelines and regulation governing the LIFE Scholarship Program, any audits or other oversight as may be deemed necessary to monitor the expenditures of scholarship funds.

B. According to the Audit Policies and Procedures for Scholarship and Grant Programs Manual, all eligible institutions that participate in the program must abide by program policies, rules or regulation. Institutions also agree to maintain and provide all pertinent information, records, reports or any information as may be required or requested by the Commission on Higher Education or the General Assembly to ensure proper administration of the program.

C. The Chief Executive Officer at each participating institution shall identify to the Commission on Higher Education a LIFE Scholarship institutional representative who is responsible for the operation of the program on the campus and will serve as the contact person. The institutional representative will act as the student's fiscal agent to receive and deliver funds for use under the program.

D. The participating institution shall identify to the Commission on Higher Education an institutional representative who is responsible for determining residency classification for the purposes of awarding the LIFE Scholarship.

E. All eligible independent and public institutions that participate in the program must verify the lawful presence of any student who receives a LIFE Scholarship and LIFE Scholarship Enhancement prior to awarding the Scholarship to the student. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

62-1200.75. Suspension or Termination of Institutional Participation: LIFE Scholarship and LIFE Scholarship Enhancement.

A. The Commission may review institutional administrative practices to determine institutional compliance with pertinent statutes, guidelines, rules or regulations. If such a review determines that an institution has failed to comply with Program statutes, guidelines, rules or regulations, the Commission may suspend, terminate, or place certain conditions upon the institution's continued participation in the Program and require reimbursement to the LIFE Scholarship Program for any LIFE Scholarship or LIFE Scholarship Enhancement funds lost or improperly awarded.

B. Upon receipt of evidence that an institution has failed to comply, the Commission on Higher Education shall notify the institution in writing of the nature of such allegations and conduct an audit.

C. If an audit indicates that a violation or violations may have occurred or are occurring at any eligible public or independent institution, the Commission on Higher Education shall secure immediate reimbursement from the institution in the event that any funds were expended out of compliance with the provisions of the Act, any relevant statutes, guidelines, rules, and regulations.

D. The institution is responsible for determining SC residency and lawful presence of all LIFE Scholarship and LIFE Scholarship Enhancement recipients. If it is determined that the institution has failed to verify the lawful presence and SC residency of a LIFE Scholarship or LIFE Scholarship Enhancement recipient, the institution shall immediately reimburse the funds disbursed in error.

E. Independent and public institutions of higher learning in this, or any other state in the U.S., outside the U.S. or abroad, are prohibited from using the Legislative Incentive for Future Excellence or "LIFE" Scholarship in programs that promote financial aid incentives or packages. Any mention of the Legislative Incentive for Future Excellence or "LIFE" Scholarship in these financial aid packages must indicate the scholarship to be separate from the University that is offering the financial aid package, and reference the Legislative Incentive for Future Excellence or "LIFE" Scholarship as a separate financial aid award, provided to the student by the State of South Carolina.

F. The student shall be required to provide a nationally recognized, unique identifier in order to award, disburse and/or transfer the student's LIFE Scholarship to an eligible institution.

Fiscal Impact Statement:

There will be no increased administration costs to the state or its political subdivisions.

Statement of Rationale:

This proposed regulation will clarify the policies and procedures for administering the LIFE Scholarship Program at the public and independent colleges and universities in the state. The proposed regulation includes the addition of the Pharmacy programs at South University and Presbyterian College to the LIFE Scholarship

100 FINAL REGULATIONS

Program. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing LIFE Scholarship & LIFE Scholarship Enhancement funds to eligible students in accordance with the SC Illegal Immigration Reform Act. This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures.

Document No. 4147
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-150-360

62-900.150 - 62-900.200. Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions

Synopsis:

This proposed regulation will clarify the policies and procedures for administering the Lottery Tuition Assistance Program for Two-Year Public and Independent Institutions in the state. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing the Lottery Tuition Assistance funds to eligible students in accordance with the SC Illegal Immigration Reform Act. This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures.

A Notice of Drafting was published in the *State Register* on May 28, 2010.

Instructions: Modify and replace in its entirety R.62-900.150 through 62-900.200 with the following.

Text:

Table of Contents:

62-900.150. Purpose of the Lottery Tuition Assistance Program
62-900.155. Allocation of Funds
62-900.160. Program Definitions
62-900.165. Student Eligibility
62-900.170. Policies and Procedures for Awarding Lottery Tuition Assistance
62-900.175. Duration of Award and Continued Eligibility
62-900.180. Students with Disabilities
62-900.181. Military Mobilization
62-900.185. Institutional Disbursement of Funds
62-900.190. Refunds and Repayments
62-900.195. Program Administration and Audits
62-900.200. Suspension or Termination of Institutional Participation

62-900.150. Purpose of the Lottery Tuition Assistance Program.

Pursuant to the S.C. Education Lottery Act, which was established in 2001 and amended by Act 48 and Act 95 during the 2005 legislative session, the Commission on Higher Education shall promulgate regulation and establish procedures to administer the Lottery Tuition Assistance Program at the State two-year public and independent institutions. The purpose of the Lottery Tuition Assistance Program is to provide resources to the extent that funds are available that supplement, not supplant, existing resources for educational purposes to

South Carolina's students. The program will assist students who wish to attend two-year public or independent colleges in South Carolina.

Independent and public institutions of higher learning in this, or any other state in the U.S., outside the U.S. or abroad are prohibited from using the Lottery Tuition Assistance Program or "LTAP" in programs that promote financial aid incentives or packages. Any mention of the Lottery Tuition Assistance Program or "LTAP" in these financial aid packages must indicate the scholarship to be separate from the University that is offering the financial aid package, and reference the Lottery Tuition Assistance Program as a separate financial aid award, provided to the student by the State of South Carolina.

62-900.155. Allocation of Funds.

A. This program is dependent upon sufficient annual funding from the S.C. Education Lottery Account.

B. Of the monies in the Education Lottery Account, funds shall be appropriated to the Commission on Higher Education for tuition assistance at two-year public and independent institutions as provided in Section 59150-360.

62-900.160. Program Definitions.

A. "Academic year" is defined as the fall, spring, and summer terms.

B. "Associate's degree program" is defined as a two-year or associate's degree program (Associate of Arts or Associate of Science), which leads to the first two years of a bachelor's degree at a location approved by the U.S. Department of Education for participation in federally funded financial aid programs and authorized by the Commission on Higher Education.

C. "Cost-of-tuition" is defined as the amount charged for enrolling for credit hours of instruction and mandatory fees assessed to all students. Other fees, charges, or cost of textbooks cannot be included.

D. "Degree-seeking student" is defined as any part-time or full-time student enrolled in a diploma, certificate, or an associate's degree program of study at an eligible SC public or independent two-year institution.

E. "Eligible program" is defined as a program of study leading to an associate's degree or at least a two-year program that is acceptable for full credit towards a bachelor's degree, which meets all other Title IV regulations as authorized by the U.S. Department of Education for participation in federally funded financial aid programs.

F. "Field of study" shall mean an area in which a certificate, diploma, or degree is awarded. A certificate/diploma earned that progresses to a diploma/associate's degree in the same academic area.

G. "For graduation purposes" is defined as any grade or credit hour that the home institution requires in accordance with their policies and procedures for graduation of the student, including electives and additional coursework.

H. "Full-time student" shall mean a student who has matriculated into an eligible program, and who enrolls in a minimum of twelve credit hours (or the equivalent) at the home institution during an academic term.

I. "Independent two-year institutions" are defined, for the purposes of the Lottery Tuition Assistance Program, as those two-year institutions eligible to participate in the South Carolina Tuition Grants Program as defined in Chapter 113 of Title 59 of the 1976 Code, which stipulates an "independent institution of higher learning means any independent eleemosynary junior or senior college in South Carolina whose major campus and headquarters are located within South Carolina and which is accredited by the Southern Association of

102 FINAL REGULATIONS

Colleges and Schools.” Institutions whose sole purpose is religious or theological training or the granting of professional degrees do not meet the definition of an eligible institution. Independent four-year institutions are not eligible for participation in this Program.

J. “Lawful Presence” is defined as individuals who are US citizens, permanent residents, or non-US citizens and non-permanent residents who are legally present in the US. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien’s immigration status with the federal government pursuant to 8 USC Section 1373(c).
K. “Military mobilization” is defined as a situation in which the U.S. Department of Defense orders members of the United States Armed Forces to active duty away from their normal duty assignment during a time of war or national emergency.

L. “Multi-handicapped student” shall be defined as a student who, in addition to being visually or hearing impaired, has at least one additional disabling condition that qualifies the student to receive specialized postsecondary education.

M. “Part-time student” shall mean a student who has matriculated into an eligible program, and who enrolls in a minimum of six credit hours at the home institution and a maximum of eleven credit hours (or its equivalent) during an academic term.

N. “Public two-year institutions” are defined, for the purposes of the Lottery Tuition Assistance Program, as those two-year institutions defined by Chapter 103 of Title 59 of the 1976 Code, which stipulates a "public institution of higher learning shall mean any state-supported postsecondary educational institution." Public four-year institutions are not eligible for participation in this Program. Technical colleges are governed by regulations promulgated by the SC Technical College System.

O. “Remedial coursework” shall mean sub-collegiate level preparatory courses in English, mathematics, and reading or any other course deemed remedial by the institution where the course is taken.

P. “Satisfactory academic progress” shall mean the minimum academic standard for academic progress established by the institution for the purpose of complying with Title IV regulations for federal student aid programs and for State scholarship and grants.

Q. “South Carolina resident” shall be defined as an individual who satisfies the requirements of residency in accordance with the State of South Carolina Statute for Tuition and Fees, Statute 59-112-10, unless the student qualifies for an exception as defined in the residency regulation promulgated by the Commission on Higher Education as determined by the institutional residency officer each academic year.

62-900.165. Student Eligibility.

A. To be eligible for Lottery Tuition Assistance each academic year, the student must:

1. File the Free Application for Federal Student Aid (FAFSA) and complete the process to determine eligibility for federal student aid each academic year or complete a FAFSA Waiver each academic year. A college may waive the FAFSA requirement when: 1) the student is in high school and is participating in a dual enrollment program; 2) the student has already earned a bachelor’s degree; 3) the student is enrolled in a program that is not eligible for federal funds; or 4) the dependent student is not able to obtain his/her parents’, guardians’ or spouse’s tax form. The student must provide all necessary documentation and have the form approved by the financial aid office at the institution he/she attends;

2. Be a U.S. citizen or a legal permanent resident that meets the definition of an eligible non-citizen under State residency statutes;

3. Qualify for in-state tuition and be a resident of the State of South Carolina for a minimum of one year according to Title 59 of the 1976 Code of Laws governing the determination of residency for tuition and fee purposes, unless the student qualifies for an exception as defined in the residency regulation promulgated by the Commission on Higher Education;

4. Be enrolled or accepted for enrollment as a part-time or full-time student in a diploma, certificate, or an associate's degree-seeking program in an eligible program at an eligible two-year public or independent college in South Carolina. A student enrolled in less than six credit hours during one term may not receive Lottery Tuition Assistance for the term in question but is eligible for the award upon return to part-time or full-time status;

5. Be making satisfactory academic progress towards completion of the requirements of the program as provided by Title IV Regulations;

6. Be enrolled or have completed at the time of funds disbursement a minimum of six credit hours at the home institution for the term of eligibility;

7. Verify that he/she is not in default and does not owe a refund or repayment on any federal or state financial aid including state scholarships or grants, a Federal Pell Grant, a Supplemental Educational Opportunity Grant, the Federal Perkins Loan, or Federal Stafford Loan programs;

8. Not be eligible for or a recipient of a SC HOPE, LIFE or Palmetto Fellows Scholarship during the academic year; and

9. Meet all eligibility requirements annually.

B. Students shall not be eligible to receive Lottery Tuition Assistance for more than one certificate, diploma, or degree earned within any five-year period unless the additional certificate, diploma, or degree constitutes progress in the same field of study. Students must be making satisfactory academic progress towards completion of the requirements of the program as provided by Title IV Regulations.

C. Students enrolled in an eligible program of study as stated in the "Program Definitions" section may include remedial courses as part of the minimum number of required credit hours for part-time or full-time status, as long as such courses carry credit hours and meet Title IV limitations on remedial coursework.

D. Students may not receive Lottery Tuition Assistance at more than one institution during the same semester.

E. Only students who are degree-seeking shall receive Lottery Tuition Assistance at their home institution. Transient students shall not receive Lottery Tuition Assistance.

F. While the student is taking remedial/developmental coursework, an exception to the initial college enrollment applies only to first-time freshmen who met the eligibility requirements for the LIFE Scholarship upon graduation from high school, are enrolled in less than 12 credit hours of non-remedial coursework at an eligible two-year or technical college and taking a minimum of six credit hours of remedial/developmental education coursework during the term may be eligible to receive Lottery Tuition Assistance for the fall and/or spring terms only of their first academic year. First-time freshmen who are eligible for the LIFE Scholarship, attending an eligible two-year or technical college and enrolled in a minimum of 12 credit hours of non-remedial coursework shall receive the LIFE Scholarship. Once a student is awarded the LIFE Scholarship, they are no longer eligible to receive LTAP during the same academic year. See Section 62-1200.10 (I) of the LIFE Scholarship and LIFE Scholarship Enhancement Regulation.

G. Any false information provided by the student or any attempt to obtain or expend Lottery Tuition Assistance for unlawful purposes or any purpose other than in payment or reimbursement for the cost of

104 FINAL REGULATIONS

tuition at the institution authorized to award the funds will be cause for immediate cancellation of Lottery Tuition Assistance. Any student who has attempted to or obtained Lottery Tuition Assistance through means of a willfully false statement or failure to reveal any material fact, condition, or circumstances affecting eligibility will be subject to applicable civil or criminal penalties, including loss of Lottery Tuition Assistance.

62-900.170. Policies and Procedures for Awarding Lottery Tuition Assistance.

A. The Lottery Tuition Assistance Program will be administered by the financial aid office on each campus, and the funds will supplement the student financial aid awards.

B. Actual award amounts are dependent upon the number of eligible students and the amount of funding available each academic year. Lottery Tuition Assistance may not exceed the cost of in-state tuition at State two-year public institutions for the academic year for which the award is made at the designated institution. At independent two-year institutions, the award amount is limited to the highest in-state tuition rate at a two-year public institution. In calculating the amount awarded in Lottery Tuition Assistance, all federal grants and Need-based Grants must be awarded first before determining the amount eligible in Lottery Tuition Assistance to be used for payment towards cost-of-tuition.

C. Adjustments to the financial aid package will be made to Lottery Tuition Assistance when federal grants and Need-based Grants can be applied towards cost-of-tuition.

D. Participating institutions will notify students of their Lottery Tuition Assistance with the terms and conditions of the award.

E. Effective Fall 2008, Section 59-101-430 A of SECTION 17. Chapter 101 Title 59 of the 1976 Code states that unlawful aliens are prohibited from attending SC public institutions of higher learning. This applies to students who are currently enrolled, as well as new enrollees. In accordance of this statute, institutions must institute a process that verifies an individual's lawful presence in the United States. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

F. The institution must retain annually appropriate paper or electronic documentation for each award to include at a minimum:

1. Institutional Student Information Report (ISIR) if student completed the FAFSA or FAFSA Waiver and appropriate supporting documentation
2. Award notification
3. Institutional disbursements to student
4. Refund and repayment (if appropriate)
5. Satisfactory academic progress
6. Student's residency status
7. Enrollment and curriculum requirements
8. Verification from institutional disability service provider of student's disability and approval of reduced course-load requirement (if appropriate)
9. Student award based upon approval of institutional appeal (if appropriate)
10. Military mobilization orders (if appropriate)
11. Verification from the institution that lawful presence in the US has been verified.

G. It is the institution's responsibility to ensure that no ineligible student receives Lottery Tuition Assistance.

H. The student shall be required to provide a nationally recognized unique identifier in order for the institution to award, disburse, and/or transfer the student's state scholarship and/or grant to an eligible institution.

62-900.175. Duration of Award and Continued Eligibility.

- A. Award decisions will be made annually and are not automatically guaranteed. The institution shall adjust the amount of the award during the academic year in the event of a change in the student's enrollment status.
- B. Each academic year, students applying for Lottery Tuition Assistance must file a Free Application for Federal Student Aid or complete the FAFSA Waiver and provide any appropriate supporting documentation which may be required by the institution. Students must meet all eligibility requirements as stated in the "Student Eligibility" Section. Students must adhere to these guidelines and other pertinent statutes and regulations and with application timeliness and procedures stipulated by the institutions.
- C. Students must meet satisfactory academic progress as established by the institution for the purposes of complying with Title IV regulations for continued eligibility to receive Lottery Tuition Assistance.
- D. The institution shall be responsible for maintaining institutional certification of each recipient's continuous part-time and/or full-time enrollment in an eligible program of study.
- E. Students wishing to appeal any award decision must submit a written request to the institution's Director of Financial Aid. This request will be handled in accordance with the institution's financial aid appeals procedures. The institution's decision on appeals shall be final.

62-900.180. Students with Disabilities.

- A. Students who qualify under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 must meet all eligibility requirements as defined in "Student Eligibility" Section except for a student who is approved by the disability services provider at the home institution to be enrolled in less than part-time status is eligible to receive funding. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.
- B. The institutional disability services provider must provide written documentation to the Office of Financial Aid each academic year verifying that the student is approved to be enrolled in less than part-time status.

62-900.181. Military Mobilization.

- A. Service members who are enrolled in college and are affected by military mobilizations will not be penalized for the term(s) they are required to withdraw after the full refund period based on the institutional policies and procedures. Institutions are strongly encouraged to provide a full refund of required tuition, fees and other institutional charges or to provide a credit in a comparable amount against future charges for students who are forced to withdraw as a result of military mobilization.
- B. If mobilization causes a student to not meet satisfactory academic progress, the student must appeal to the institution's financial aid office. This request will be handled in accordance with the institution's financial aid appeals procedures.
- C. The home institution will be responsible for receiving verification of military mobilization status.

62-900.185. Institutional Disbursement of Funds.

- A. Actual award amounts are dependent upon the number of eligible students and the amount of funding available each academic year. Lottery Tuition Assistance may not exceed the cost of in-state tuition at the State two-year public institutions for the academic year for which the award is made at the designated institution. At independent two-year institutions, the amount cannot exceed the highest in-state tuition rate at a two-year public institution. In calculating the amount awarded in Lottery Tuition Assistance, all federal grants

106 FINAL REGULATIONS

and Need-based Grants must be awarded first before determining the amount eligible in Lottery Tuition Assistance to be used for payment towards cost-of-tuition.

B. The institution shall provide an award notification to Lottery Tuition Assistance Program recipients, which will contain the terms and conditions of the award and other financial aid awarded. Students will be notified of adjustments in financial aid due to changes in eligibility and/or over-award issues.

C. The institution shall award only students who meet satisfactory academic progress as established by the institution for the purposes of complying with Title IV regulations. After the last day to register for each term of the academic year, the institution will verify that each recipient is a South Carolina resident who is a part-time or full-time, degree-seeking student. The institution must submit a request for funds and/or a return of funds by the established deadline each term. In addition, a listing of all eligible recipients by identification number with the award amounts for the term must be sent to the Commission on Higher Education. At this time, any unused funds must be returned to CHE immediately.

D. Visually impaired, hearing impaired or multi-handicapped students who qualify for Lottery Tuition Assistance may use the State grant funds to attend a CHE approved two-year out-of-state institution that specializes in educating students with their impairment upon receiving prior approval from the Commission on Higher Education. The Commission on Higher Education shall make the final decision as to whether an out-of-state institution specializes in the postsecondary education of visually impaired, hearing impaired or multi-handicapped students.

E. The student shall be required to provide a nationally recognized unique identifier in order for the institution to award, disburse, and/or transfer the student's state scholarship and/or grant to an eligible institution.

62-900.190. Refunds and Repayments.

A. In the event a student who has been awarded Lottery Tuition Assistance withdraws, is expelled, is suspended from the institution, drops below part-time (six credit hours) or full-time (twelve credit hours) status, or is found to be a non SC resident or has an unlawful presence in the United States during any term of the academic year, institutions must reimburse the Lottery Tuition Assistance Program for the term in question pursuant to refund policies of the institution.

B. In the event a student withdraws or drops below part-time or full-time status after the institution's refund period and therefore must pay tuition and fees for part-time or full-time enrollment, the award may be retained by the student pursuant to the refund policies of the institution.

62-900.195. Program Administration and Audits.

A. The South Carolina Commission on Higher Education will coordinate the oversight of functions (e.g., guidelines, policies, rules, regulations) relative to this program with eligible two-year public and independent institutions in South Carolina. The Commission on Higher Education shall be responsible for the allocation of funds, promulgation of the regulations and rules, and statewide oversight of the Lottery Tuition Assistance Program.

B. According to the Audit Policies and Procedures for Scholarship and Grant Programs Manual, all eligible institutions that participate in the program must abide by program policies, rules or regulations. Institutions also agree to maintain and provide all pertinent information, records, reports, or any information as may be required or requested by the Commission on Higher Education or the General Assembly to ensure proper administration of the program.

C. The Chief Executive Officer at each participating institution shall identify to the Commission on Higher Education an institutional representative who is responsible for the operation of the program on the campus

and will serve as the contact person for the program. The institutional representative will act as the student's fiscal agent to receive and deliver funds for use under the program.

D. Independent and public institutions of higher learning in this, or any other state in the U.S., are prohibited from using the Lottery Tuition Assistance Program or "LTAP" in programs that promote financial aid incentives or packages. Any mention of the Lottery Tuition Assistance Program or "LTAP" in these financial aid packages must indicate the scholarship to be separate from the University that is offering the financial aid package, and reference the Lottery Tuition Assistance Program as a separate financial aid award, provided to the student by the State of South Carolina.

E. All eligible independent and public institutions that participate in the program must verify the lawful presence of any student who receives Lottery Tuition Assistance funding prior to awarding the grant to the student. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

62-900.200. Suspension or Termination of Institutional Participation.

A. The Commission may review institutional administrative practices to determine institutional compliance with rules and regulations, pertinent statutes, and program guidelines. If such a review determines that an institution has failed to comply with program statutes, rules, or regulations, the Commission may suspend, terminate, or place certain conditions upon the institution's continued participation in the program and require reimbursement to the Lottery Tuition Assistance Program for any funds lost or improperly awarded.

B. Upon receipt of evidence that an institution has failed to comply with program statutes, rules, regulations, the Commission on Higher Education shall notify the institution in writing of the nature of such allegations and conduct an audit.

C. If an audit indicates that a violation or violations may have occurred or are occurring at any public or independent college, the Commission on Higher Education shall secure immediate reimbursement from the institution in the event that any funds were expended out of compliance with the provisions of the Act, any relevant statutes, pertinent rules, and this regulation.

Fiscal Impact Statement:

There will be no increased Administration costs to the state or its political subdivisions.

Statement of Rationale:

This proposed regulation will clarify the policies and procedures for administering the Lottery Tuition Assistance Program for two-year public and independent institutions in the state. The proposed regulation includes the eligibility criteria that students must meet in order to be awarded Lottery Tuition Assistance. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing Lottery Tuition Assistance funds to eligible students. This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures.

Document No. 4148
COMMISSION ON HIGHER EDUCATION
CHAPTER 62
Statutory Authority: 1976 Code Section 59-142-20

62-450 - 62-505. South Carolina Need-based Grants Program

Synopsis:

The South Carolina Commission on Higher Education proposes the following revisions to Chapter 62 regulation, R.62-450 through 62-505, South Carolina Need-based Grants Program. The proposed regulation will provide the eligibility criteria that students must meet in order to be awarded a South Carolina Need-based Grant. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing the South Carolina Need-based Grant funds to eligible students.

A Notice of Drafting was published in the *State Register* on May 28, 2010.

Instructions: Modify and replace in its entirety R.62-450 through 62-505 with the following.

Text:

Table of Contents:

- 62-450. Purpose of the South Carolina Need-based Grants Program
- 62-455. Allocation of Need-based Grant Funds to Public and Independent Institutions
- 62-460. Program Definitions for Administering South Carolina Need-based Grants at Public Institutions
- 62-465. Student Eligibility
- 62-470. Policies and Procedures for Awarding Need-based Grants
- 62-475. Duration of Award and Continued Eligibility
- 62-480. Students with Disabilities
- 62-485. Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, or National or International Student Exchange Programs
- 62-490. Institutional Disbursement of Need-based Grants
- 62-495. Refunds and Repayments
- 62-500. Program Administration and Audits
- 62-505. Suspension or Termination of Institutional Participation

62-450. Purpose of the South Carolina Need-based Grants Program.

Pursuant to Act 458, South Carolina Children First: Resources for Scholarships and Tuition Act of 1996, of the 1995-1996 Appropriations Bill, the Commission on Higher Education shall promulgate regulation and establish procedures to administer the South Carolina Need-based Grants Program. The purpose of the South Carolina Need-based Grants Program is to provide additional financial aid assistance to South Carolina's neediest students. The program will assist students who wish to attend public or independent colleges or universities in the State.

62-455. Allocation of Need-based Grant Funds to Public and Independent Institutions.

A. Funds made available for higher education grants and scholarships under Chapter 143 of Title 59 of the 1976 Code, as amended under Act 458, South Carolina Children First: Resources for Scholarship and Tuition Act of 1996, shall be included in the annual appropriation to the Commission on Higher Education. Fifty

percent of the appropriation shall be designated for the Palmetto Fellows Scholarship Program and the remaining fifty percent shall be for the Need-based Grants Program. However, in instances where the equal division of the appropriated funds between the Palmetto Fellows Scholarship and Need-based Grants Programs exceeds the capacity to make awards in either program, the Commission on Higher Education has the authority to re-allocate the remaining funds between the two programs. The Commission on Higher Education shall award to eligible students who are attending public or independent eligible institutions as State Need-based Grant recipients as follows:

1. Of the funds allocated to public institutions, the percentage shall be equivalent to the percentage of the public institution's share of the total South Carolina resident undergraduate full-time headcount enrollment in the preceding year.

2. Of the funds allocated to independent institutions, the percentage shall be equivalent to the percentage of the independent institutions' share of the total South Carolina resident undergraduate full-time headcount enrollment in the preceding year and will be determined annually by the South Carolina Commission on Higher Education and the Tuition Grants Commission. The funds allocated for Need-based Grants shall be included in the annual appropriation to the Commission on Higher Education and transferred annually into the budget of the South Carolina Tuition Grants Commission, which will distribute these funds as Tuition Grants.

B. Independent and public institutions of higher learning in this, or any other state in the U.S., outside the U.S. or abroad are prohibited from using the SC Need-based Grant in programs that promote financial aid incentives or packages. Any mention of the SC Need-based Grant in these financial aid packages must indicate the scholarship to be separate from the University that is offering the financial aid package, and reference the SC Need-based Grant as a separate financial aid award, provided to the student by the State of South Carolina.

62-460. Program Definitions for Administering South Carolina Need-based Grants at Public Institutions.

A. "Academic year" is defined as the fall, spring and summer semesters during which a part-time student would be expected to earn a minimum of six credit hours for each semester the student is enrolled for a minimum of 12 credit hours or a full-time student would be expected to earn a minimum of twelve credit hours for each semester to earn a minimum of 24 credit hours.

B. "Associate degree program" is defined as a two-year technical or occupational program or an associate's degree program (Associate of Arts or Associate of Science) which leads to the first two years of a baccalaureate degree at a location approved by the U.S. Department of Education for participation in Federally funded financial aid programs and authorized by the Commission on Higher Education.

C. "Baccalaureate degree program" is defined as an undergraduate program of study leading to the first bachelor's degree at a location approved by the U.S. Department of Education for participation in Federally funded financial aid programs and authorized by the Commission on Higher Education.

D. "Degree-seeking student" is defined as any part-time or full-time student enrolled in an eligible program of study at an eligible institution.

E. "Eligible program" is defined as a program of study leading to: 1) the first baccalaureate degree 2) a program of study that is structured so as not to require a baccalaureate degree and leads to a graduate degree; 3) first associate's degree or two-year program that is acceptable for full credit towards a bachelor's degree; or 4) one-year program that leads to other recognized credentials (e.g., first diploma or first certificate). Study toward the first diploma or certificate may be followed by study toward the first associate's degree, which may be followed by transfer to the first baccalaureate degree or a program of study that is structured so as not to require a baccalaureate degree and leads to a graduate degree. Students who have already obtained a baccalaureate degree are not eligible for subsequent grant funds.

110 FINAL REGULATIONS

F. "Full-time student" shall mean a student who has matriculated into an eligible program of study, and who enrolls in a minimum of twelve credit hours during the regular academic semester.

G. "Independent institutions" are those institutions eligible to participate in the South Carolina Tuition Grants Program as defined in Chapter 113 of Title 59 of the 1976 Code, which stipulates that "an independent institution of higher learning means any independent eleemosynary junior or senior college in South Carolina whose major campus and headquarters are located within South Carolina and which is accredited by the Southern Association of Colleges and Schools."

H. "Lawful Presence" is defined as individuals who are US citizens, permanent residents, or non-US citizens and non-permanent residents who are legally present in the US. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

I. "Need analysis" shall mean the process of analyzing the household and financial information on the student's financial aid application and calculating the amount the family can be expected to contribute to the educational costs. For Federal Student Aid Programs, the need analysis system is defined under Title IV of the Higher Education Act of 1965.

J. "Needy student" shall mean a post-secondary student enrolled in or accepted for enrollment in a public institution who demonstrates to the institution the financial inability, either parental, familial, or personal, to bear the total cost-of-attendance for any regular academic semester. The determination of need shall be made in accordance with Federal need analysis formulae and provisions.

K. An "offense" shall mean a violation of any law or rule in any state or Federal criminal justice system.

L. "One-year program" is defined as an undergraduate program of study leading to other recognized educational credentials (e.g., certificates or diplomas that prepare students for gainful employment in a recognized occupation) at a location approved by the U.S. Department of Education for participation in Federally funded financial aid programs and is authorized by either the Commission on Higher Education or the State Board for Technical and Comprehensive Education.

M. "Part-time student" shall mean a student who has matriculated into an eligible program of study, and who enrolls in a minimum of six credit hours and a maximum of eleven credit hours during the regular academic semester.

N. "Program of study that is structured so as not to require a baccalaureate degree" is a program of study that is structured so as not to require a baccalaureate degree for acceptance into the program and leads to a graduate degree, which will be the student's first academic degree awarded, at a location approved by the U.S. Department of Education for participation in Federally funded financial aid programs. Students are eligible to receive the grant for a maximum of eight full-time equivalent semesters as long as all other eligibility criteria are met. Students who have been awarded a baccalaureate or graduate degree are not eligible for grant funding.

O. "Public institutions" are those institutions as defined in Chapter 103 of Title 59 of the 1976 Code, which stipulates that: "1) 'public higher education' shall mean state-supported education in the post-secondary field, including comprehensive and technical education; 2) 'public institution of higher learning' shall mean any state-supported post-secondary educational institution and shall include technical and comprehensive educational institutions."

P. "Remedial coursework" shall mean sub-collegiate level preparatory courses in English, mathematics, and reading offered at the State's technical colleges.

Q. "Satisfactory academic progress" shall mean the minimum academic standard for academic progress established by the public institution for the purpose of complying with Title IV regulations for Federal Student Aid Programs.

R. "South Carolina resident" shall be defined as an individual who satisfies the requirements of residency in accordance with the State of South Carolina Statute for Tuition and Fees, Statute 59-112-10.

62-465. Student Eligibility.

A. To be eligible for a Need-based Grant each academic year, the student must:

1. Be a "needy student" following the financial need analysis as established under Title IV Regulations for determining eligibility for Federal Student Aid. The student must file the Free Application for Federal Student Aid (FAFSA) Form;

2. Be a U.S. citizen or a lawful permanent resident that meets the definition of an eligible non-citizen under State Residency Statutes whose lawful presence in the US has been verified at the time of enrollment at the institution;

3. Be a resident of the state of South Carolina for twelve consecutive months as defined in Chapter 112 of Title 59 of the 1976 Code of Laws governing the determination of residency for tuition and fee purposes;

4. Be enrolled or accepted for enrollment as a part-time or full-time degree-seeking student in an eligible program of study at an eligible public institution in South Carolina. A student enrolled in less than six credit hours during one semester may not receive a Need-based Grant for the semester in question but is eligible for reapplication for a grant upon return to part-time or full-time status;

5. Be enrolled and attending or have completed at the time of the grant disbursement in a minimum of six credit hours if part-time for the semester or twelve credit hours if full-time for the semester;

6. Certify that he/she has not been adjudicated delinquent or been convicted or pled guilty or nolo contendere to any felonies or any second or subsequent alcohol or drug-related offenses under the laws of this or any other state or under the laws of the United States in order to be eligible for a South Carolina Need-based Grant, except that a high school or college student otherwise qualified who has been adjudicated delinquent or has been convicted or pled guilty or nolo contendere to a second or subsequent alcohol or drug-related misdemeanor offense nevertheless shall be eligible or continue to be eligible for such grants after the expiration of one academic year from the date of the adjudication, conviction, or plea; and be eligible for the need-based grants for a maximum of four academic years of two semesters by submitting a signed affidavit each academic year to the institution. However, a high school or college student who has been adjudicated delinquent, convicted, or pled guilty or nolo contendere of a second or subsequent alcohol/drug related misdemeanor offense is ineligible for the next academic year of enrollment at an eligible institution after the date of the adjudication, conviction or plea. If the adjudication, conviction, or plea occurs during the academic year after the student has already submitted a signed affidavit to the institution, the student will be eligible to receive the Need-based Grant the remainder of the academic year. However, the student will be ineligible for the Need-based Grant the following entire academic year of enrollment. If a student completes a pretrial intervention program and has his/her record expunged the conviction will not affect grant eligibility; and

7. Verify that he/she does not owe a refund or repayment on a State Grant, a Pell Grant, or a Supplemental Educational Opportunity Grant and is not in default on a loan under the Federal Perkins Loan or Federal Stafford Loan Programs; and

8. Must reapply for the Need-based Grant each academic year and meet all eligibility requirements annually.

112 FINAL REGULATIONS

9. Students who have previously earned credit hours and are applying for the South Carolina Need-based Grant for the first time must have earned at least a cumulative 2.0 grade point average on a 4.0 scale for graduation purposes at the end of the academic year before being awarded the Grant.

B. Students enrolled part-time or full-time may not receive a Need-based Grant for more than a maximum of eight full-time equivalent semesters. Students may only receive Need-based Grant funding for up to two semesters of the academic year. Students who have already been awarded their first baccalaureate degree are not eligible to receive a Need-based Grant.

C. Students enrolled in an eligible program of study as stated in the "Program Definitions" Section may include remedial courses as part of the minimum number of required credit hours for part-time or full-time status, as long as such courses carry credit hours and meet Title IV limitations on remedial coursework.

D. Any false information provided by the student or any attempt to obtain or expend any Need-based Grant for unlawful purposes or any purpose other than in payment or reimbursement for the cost-of-attendance at the institution authorized to award the grant will be cause for immediate cancellation of the Need-based Grant. Any student who has obtained a Need-based Grant through means of a willfully false statement or failure to reveal any material fact, condition, or circumstances affecting eligibility will be subject to applicable civil or criminal penalties, including loss of the Need-based Grant.

62-470. Policies and Procedures for Awarding Need-based Grants.

A. The Need-based Grants Program for the public institutions will be campus-administered. Grant funds will supplement the student financial aid awards administered by the participating public colleges and universities.

B. The participating institution will make awards in amounts to be defined in accordance with the Need-based Grants Program regulation and criteria, but not to exceed \$1,250 per eligible part-time student and \$2,500 per eligible full-time student per academic year, based on the institution's allocated funds for Need-based Grants and other financial aid awarded to individual applicants. However, the Commission, due to inflation increases or other relevant factors, may periodically adjust the maximum award for the Need-based Grants Program. A maximum of fifty percent of the grant shall be disbursed for two terms of the academic year, assuming continued eligibility.

C. Need-based Grants are to be used only towards payment for the cost-of-attendance as defined by Title IV Regulations as modified by D below for the academic year for which the award is made at the designated institution. The maximum amount awarded shall not exceed the cost-of-attendance as defined in Title IV Regulations for any year.

D. Charges for room and board are to be limited as follows:

1. Room charges shall not exceed the average cost of on-campus residential housing; and
2. Board charges shall not exceed the cost of the least expensive on-campus meal plan, which includes 21 meals per week.

E. In determining the amount awarded for the Need-based Grant, all other sources of gift aid, including Federal, State, private and institutional funds, must be applied to the total cost-of-attendance before calculating the unmet need and awarding the grant. The Need-based Grant shall be awarded only after all other sources of gift aid have been exhausted. Adjustments to the financial aid package will be made to the Need-based Grant in accordance with prescribed Title IV Regulations in order to prevent an over-award.

F. Institutions must give first priority and award the maximum allowable Need-based Grant (\$2,500 if full-time or \$1,250 if part-time) to students who are in the custody of the South Carolina Department of Social Services (DSS). However, institutions should not award the maximum amount if, by doing so, this causes the student to exceed the unmet need according to Title IV Regulations. Students who may be eligible under this provision are responsible for contacting the institution and providing official verification to the institution that he/she is in custody of DSS. Acceptable verification shall include a letter from DSS.

G. Participating institutions will notify students of their Need-based Grant along with the terms and conditions of the award.

H. The student shall be required to provide a nationally recognized unique identifier in order for the institution to award, disburse, and/or transfer the student's state scholarship and/or grant to an eligible institution.

I. Annual allocations of funds to the public institutions will be based on each institution's percentage of the State's total enrollment of South Carolina resident undergraduate full-time degree-seeking headcount enrollment. The percentage will be based on the previous year's total as determined by the Commission on Higher Education. Unused funds, which cannot be awarded by an institution, must be returned to the Commission on Higher Education, which may redirect the funds to institutions where unmet need exists.

J. Effective Fall 2008, Section 59-101-430 (A), Chapter 101, Title 59 of the 1976 Code states that unlawful aliens are prohibited from attending SC Public institutions of higher learning. This does apply to students who are currently enrolled, as well as new enrollees. In accordance of this law, institutions must institute a process that verifies an individual's lawful presence in the United States. Students receiving the SC Need-based Grant must be verified. Any student who is not verified and documented by the institution will not receive the Grant.

K. All eligible independent and public institutions that participate in the program must verify the lawful presence of any student who receives a SC Need-based Grant prior to awarding the Grant to the student. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

L. The institution must retain annual paper or electronic documentation for each award to include at a minimum:

1. Need analysis
2. Affidavit documenting that the student has never been convicted of any felonies or any second or subsequent alcohol or drug related misdemeanor offenses as stated under "Student Eligibility" and "Duration of Award and Continued Eligibility" Sections
3. Award notification
4. Institutional disbursement to student
5. Refund or repayment (if appropriate)
6. Satisfactory academic progress
7. Student's residency status
8. Enrollment and curriculum requirements

114 FINAL REGULATIONS

9. Student's disability (if appropriate)
10. Student is in custody of DSS (if appropriate)
11. Student award based upon approval of institutional appeal (if appropriate)
12. Verification from the institution that lawful presence in the US has been verified.

M. It is the institution's responsibility to ensure that only eligible students receive a Need-based Grant.

62-475. Duration of Award and Continued Eligibility.

A. Need-based Grants shall be awarded for up to two terms each academic year. The institution shall adjust the amount of the grant award during the academic year in the event of a change in the student's eligibility.

B. Need-based Grants may be awarded annually for no more than a total of eight full-time equivalent semesters of part-time or full-time study and only for up to two terms of each academic year. Award decisions will be made annually and are not automatically guaranteed. Students who have already been awarded their first baccalaureate degree are not eligible to receive a Need-based Grant.

C. Students must reapply each academic year for a Need-based Grant in accord with these guidelines and other pertinent statutes and regulations and with application timeliness and procedures stipulated by the participating institution. Students applying for a Need-based Grant must complete a FAFSA Form and be a needy student. The student must also complete any supplemental forms that may be required by the institution.

D. The institution shall be responsible for securing institutional certification of each recipient's cumulative grade point average, credit hours attempted and earned, and satisfactory academic progress for purposes of determining eligibility for award renewal.

E. For continued eligibility, the student is required to:

1. For graduation purposes, earn at least 24 credit hours each regular academic year if awarded a Need-based Grant as a full-time student or earn at least twelve credit hours if awarded a Need-based Grant as a part-time student. If a student is awarded a Need-based Grant for one semester of the academic year as a part-time student and the other semester as a full-time student, the student must earn at least eighteen credit hours each regular academic year. If a full-time student is awarded a Need-based Grant for only one semester of the academic year, the student must earn at least twelve credit hours by the end of the academic year. A part-time student who is awarded a Need-based Grant for only one semester must earn at least six credit hours by the end of the academic year. Credits earned during any additional semesters (i.e., interim, winterim or other non-regular semester) cannot be used to replace or reduce the minimum credit hour requirement for the regular academic year; and

2. Earn at least a cumulative 2.0 grade point average on a 4.0 scale for graduation purposes by the end of each regular academic year.

F. Students wishing to appeal any grant award decision must submit a written request to the institution's Director of Financial Aid. This request will be handled in accordance with the institution's financial aid appeal procedures. The institution's decision on appeals shall be final.

62-480. Students with Disabilities.

A. Students who qualify under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 must meet all eligibility requirements as defined in "Student Eligibility" Section

except for a student who is approved by the Disability Services Provider to be enrolled in less than part-time status is eligible to receive grant funding. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

B. For renewal, students who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 must meet all renewal requirements as defined in "Duration of Award and Continued Eligibility" Section except for a student not meeting the annual credit hour requirement who is approved by the Disability Services Provider to be enrolled in less than part-time status for that academic year. Students must earn the required number of hours approved by the institutional Disability Services Provider each academic year for grant renewal and earn a minimum 2.0 cumulative grade point average on a 4.0 scale by the end of the academic year. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

C. The institutional Disability Services Provider must provide written documentation to the Office of Financial Aid each academic year verifying that the student is approved to be enrolled in less than part-time status.

D. Students who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 are eligible to receive up to the maximum number of available semesters and available funds.

62-485. Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, or National or International Student Exchange Programs.

A. Students enrolled in an internship, cooperative work program, travel study program, or National or International Student Exchange Program approved by the student's home institution, and enrolled in fewer than six credit hours, shall not be eligible to receive a Need-based Grant during the period in which the student is enrolled in such programs or courses. Students enrolled in such programs may receive a Need-based Grant for up to two terms of the academic year if determined to be eligible.

B. Students enrolled in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as at least part-time transfer credit (minimum of six credit hours) are eligible to receive Need-based Grant funds during the period in which the student is enrolled in such programs. Students will be required to meet the continued eligibility requirements.

C. Eligible students may use the appropriated portion of the Need-based Grant funds for internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as at least part-time transfer credit (minimum of six credit hours). Need-based Grant funds must be paid directly to the student's account at the home institution. The amount awarded cannot exceed the cost-of-attendance at the home institution or the cost-of-attendance at the host institution, whichever is less. The Commission on Higher Education will not transfer grant funds to the institutions where students will participate in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs. The institution is responsible for grant funds according to the "Program Administration and Audits" Section.

D. The home institution will be responsible for securing official certification of the student's cumulative grade point average, credit hours earned, and satisfactory academic progress for the purposes of determining eligibility for grant renewal for the next academic year.

62-490. Institutional Disbursement of Need-based Grants.

A. The participating institution will identify award amounts, which cannot exceed \$1,250 per eligible part-time student and \$2,500 per eligible full-time student per academic year. A maximum of fifty percent of the

116 FINAL REGULATIONS

grant shall be disbursed for up to up to two terms of the academic year. The maximum amount, which may be received by a recipient for eight full-time equivalent semesters, shall be \$10,000 for students seeking their first baccalaureate degree or a program of study that is structured so as not to require a baccalaureate degree and leads to a graduate degree, \$5,000 for students seeking their first associate's degree, and \$2,500 for students seeking their first one-year certificate or diploma. Students who have obtained an associate's degree initially are eligible to apply for a Need-based Grant upon enrollment in their first baccalaureate degree or a program of study that is structured so as not to require a baccalaureate degree. Students who have obtained a recognized educational credential in a one-year program initially are eligible for application for a Need-based Grant upon enrollment in their first associate's degree, first baccalaureate degree, or a program of study that is structured so as not to require a baccalaureate degree and leads to a graduate degree.

B. A Need-based Grant may not be applied to a second baccalaureate degree or to graduate coursework, unless the graduate coursework is required as part of a program of study that is structured so as not to require a baccalaureate degree as defined in the "Program Definitions" Section.

C. The institution shall provide an award notification each academic year to Need-based Grant recipients, which will contain the terms and conditions of the grant and other financial aid awarded. Students will be notified of adjustments in financial aid due to changes in eligibility and/or over-award issues. The Commission on Higher Education, for documentation purposes, requires that each institution obtain verification of acceptance of the Need-based Grant and terms for the award.

D. After the last day to register for each semester of the academic year, the institution will verify enrollment of each recipient as a South Carolina resident that is a part-time or full-time degree-seeking student. According to the Scholarship and Grant Programs Policies and Procedures Manual, a listing of eligible recipients by social security number with the award amounts for the semester will be sent to the Commission on Higher Education with the institution's request for funds. A year-end reconciliation report will be submitted to the Commission on Higher Education prior to June 30th. Any unused funds shall be refunded to the Commission on Higher Education no later than June 30th of each fiscal year.

E. The student shall be required to provide a nationally recognized unique identifier in order for the institution to award, disburse, and/or transfer the student's state scholarship and/or grant to an eligible institution.

62-495. Refunds and Repayments.

A. In the event a student who has been awarded a Need-based Grant withdraws, is suspended from the institution, or drops below part-time (six credit hours) or full-time (twelve credit hours) status during any regular semester of the academic year, institutions must reimburse the Need-based Grants Program for the amount of the grant for the semester in question pursuant to refund policies of the institution. Collection is the responsibility of the institution.

B. The institution may redistribute such funds to other eligible students in accordance with the guidelines, or if such funds cannot be redistributed within the academic year, the institution shall return the refund amount to the Commission on Higher Education for redistribution to other institutions.

C. In the event a student withdraws or drops below part-time or full-time status after the institution's refund period and therefore must pay tuition and fees for part-time or full-time enrollment, the award may be retained by the student pursuant to the refund policies of the institution.

D. In the event a student who has been awarded the SC Need-based Grant has been identified as not being a SC resident at any time, the institution must reimburse funds to CHE for the time period the student was no longer a SC resident.

62-500. Program Administration and Audits.

A. The South Carolina Commission on Higher Education will coordinate the oversight of functions (e.g., guidelines, policies, rules, regulations) relative to this program with eligible institutions. The Commission on Higher Education shall be responsible for the allocation of funds, promulgation of the regulation and rules, any audits, or other statewide oversight of the Need-based Grants Program as deemed necessary to monitor the expenditure of grant funds.

B. According to the Audit Policies and Procedures for Scholarship and Grant Programs Manual, all eligible institutions that participate in the program must abide by program policies, rules or regulations. Institutions also agree to maintain and provide all pertinent information, records, reports, or any information as may be required or requested by the Commission on Higher Education or the General Assembly to ensure proper administration of the program.

C. Participating institutions are authorized to establish additional guidelines, rules, and regulations for awarding the grants consistent with the South Carolina Need-based Grants Program Regulation contained herein.

D. The Chief Executive Officer at each participating institution shall identify to the Commission on Higher Education a Need-based Grant institutional representative who is responsible for the operation of the program on the campus and will serve as the contact person for the program. The institutional representative will act as the student fiscal agent to receive and deliver funds for use under the program.

E. The institutions shall institute a process by which a SC Need-based Grant recipient's lawful presence in the United States is verified. The institution shall verify SC residency status and lawful presence in the United States upon college enrollment. If an institution has determined at any time that a recipient no longer meets SC residency requirements, the scholarship will be forfeited and funds are to be returned to CHE.

F. The participating institution shall identify to the Commission on Higher Education an institutional representative who will act as the point of contact for all inquiries pertaining to residency and legal presence classification for the purposes of awarding the SC Need-based Grant.

G. Independent and public institutions of higher learning in this, or any other state in the U.S., are prohibited from using the SC Need-based Grant in programs that promote financial aid incentives or packages. Any mention of the SC Need-based Grant in these financial aid packages must indicate the scholarship to be separate from the University that is offering the financial aid package, and reference the SC Need-based Grant as a separate financial aid award, provided to the student by the State of South Carolina.

62-505. Suspension or Termination of Institutional Participation.

A. The Commission may review institutional administrative practices to determine institutional compliance with pertinent statutes, guidelines, rules or regulations. If such a review determines that an institution has failed to comply with program statutes, guidelines, rules or regulations, the Commission may suspend, terminate, or place certain conditions upon the institution's continued participation in the program and require reimbursement to the State Need-based Grants Program for any funds lost or improperly awarded.

B. Upon receipt of evidence that an institution has failed to comply, the Commission on Higher Education shall notify the institution in writing of the nature of such allegations and conduct an audit.

C. If an audit indicates that a violation or violations may have occurred or are occurring at any public or independent college or university, the Commission on Higher Education shall secure immediate reimbursement from the institution in the event that any funds were expended out of compliance with the provisions of the Act, any relevant statutes, guidelines, rules, and regulations.

118 FINAL REGULATIONS

Fiscal Impact Statement:

There will be no increased Administration costs to the state or its political subdivisions.

Statement of Rationale:

This proposed regulation will clarify the policies and procedures for administering the South Carolina Need-based Grant Program at the public colleges and universities in the state. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing South Carolina Need-based Grant funds to eligible students in accordance with the SC Illegal Immigration Reform Act. This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures.

Document No. 4149

COMMISSION ON HIGHER EDUCATION

CHAPTER 62

Statutory Authority: 1976 Code Section 59-104-20

62-300 - 62-375. Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement

Synopsis:

The South Carolina Commission on Higher Education proposes the following revisions to Chapter 62 regulation, R.62-300 through 62-375, Palmetto Fellows Scholarship Program and Palmetto Fellows Scholarship Enhancement. The proposed regulation will provides the eligibility criteria that students must meet in order to be awarded a Palmetto Fellows Scholarship and a Palmetto Fellows Scholarship Enhancement. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement funds to eligible students. Clarification of the policies and procedures for administering the Palmetto Fellows Scholarship Program at the public and independent colleges and universities in the state is made. The proposed regulation includes the addition of the Pharmacy programs at Presbyterian College to the Palmetto Fellows Scholarship Program. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement funds to eligible students in accordance with the SC Illegal Immigration Reform Act. This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures.

A Notice of Drafting was published in the *State Register* on May 28, 2010.

Instructions: Modify and replace in its entirety R.62-300 through 62-375 with the following.

Text:

Table of Contents:

- 62-300. Purpose of the Palmetto Fellows Scholarship and Scholarship Enhancement
- 62-305. Allocation of Program Funds
- 62-310. Definitions
- 62-315. Initial Eligibility for Palmetto Fellows Scholarship
- 62-318. Eligibility for Palmetto Fellows Scholarship Enhancement
- 62-320. Palmetto Fellows Scholarship Application
- 62-325. Palmetto Fellows Scholarship Selection Process

- 62-330. Policies and Procedures for Awarding the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement
- 62-335. Duration and Renewal of Awards
- 62-340. Transfer of Reapplication for the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement
- 62-345. Students with Disabilities
- 62-350. Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, or National or International Exchange Programs
- 62-351. Military Mobilization
- 62-355. Appeals Procedures
- 62-360. Institutional Disbursement of Funds
- 62-365. Refunds and Repayments
- 62-370. Program Administration and Audits
- 62-375. Suspension or Termination of Institutional Participation

62-300. Purpose of the Palmetto Fellows Scholarship and Scholarship Enhancement.

A. Pursuant to Act 458 and amended by Act 95 and Act 162 in 2005, the Commission on Higher Education shall promulgate regulation and establish procedures to administer the Palmetto Fellows Scholarship Program. The General Assembly established the Palmetto Fellows Scholarship Program to foster scholarship among the State's postsecondary students and retain outstanding South Carolina high school graduates in the State through awards based on scholarship and achievement. The purpose of the Palmetto Fellows Scholarship Program is to recognize the most academically talented high school seniors in South Carolina and to encourage them to attend eligible colleges or universities in the State. A secondary purpose is to help retain talented minority students who might otherwise pursue studies outside the State.

B. Pursuant to Act 115 and amended by Act 235 in 2008, the Commission on Higher Education shall promulgate regulation and establish procedures for administration of the Palmetto Fellows Scholarship Enhancement. The General Assembly established the Palmetto Fellows Scholarship Enhancement in order to foster scholarship among the State's postsecondary students through awards based on scholarship and achievement. The purpose of the Palmetto Fellows Scholarship Enhancement Program is to recognize the most academically talented college students throughout the state of South Carolina in the areas of mathematics and science and encourage them to attend eligible colleges or universities in the State. In order to receive a Palmetto Fellows Scholarship Enhancement, all students must qualify for a Palmetto Fellows Scholarship as stipulated herein.

C. Independent and public institutions of higher learning in this or any other state in the U.S., outside the U.S. or abroad are prohibited from using the Palmetto Fellows Scholarship in programs that promote financial aid incentives or packages. Any mention of the Palmetto Fellows Scholarship in these financial aid packages must indicate the scholarship to be separate from the University that is offering the financial aid package, and reference the Palmetto Fellows Scholarship as a separate financial aid award, provided to the student by the State of South Carolina.

62-305. Allocation of Program Funds.

A. Funds made available for higher education grants and scholarships under Chapter 143 of Title 59 of the 1976 Code, as amended under Act 458, South Carolina Children First: Resources for Scholarship and Tuition Act of 1996, shall be included in the annual appropriation to the Commission on Higher Education. Fifty percent of the appropriation shall be designated for the Palmetto Fellows Scholarship Program and the remaining fifty percent shall be for the Need-based Grants Program. However, in instances where the equal division of the appropriated funds between the Palmetto Fellows Scholarship and Need-based Grants Programs exceeds the capacity to make awards in either program, the Commission on Higher Education has the authority to re-allocate the remaining funds between the two programs.

120 FINAL REGULATIONS

B. Under the South Carolina Education Lottery Act, a designated amount shall be allocated for Palmetto Fellows Scholarships and shall be included in the annual appropriation to the Commission on Higher Education.

C. After expending funds appropriated for Palmetto Fellows Scholarships from all other sources, there is automatically appropriated from the general fund of the State whatever amount is necessary to provide Palmetto Fellows Scholarships to all students meeting the requirements of Section 59-104-20.

D. The Palmetto Fellows Scholarship Enhancement is contingent upon the availability of funds appropriated by the General Assembly each academic year.

62-310. Definitions.

A. "Academic year" is defined as the twelve-month period of time during which a full-time student is expected to earn thirty credit hours. The period of time used to measure the academic year consists of the fall, spring and immediately succeeding summer terms.

B. "Annual credit hour requirement" is defined for the Palmetto Fellows Scholarship as a minimum of thirty (30) credit hours taken and earned at the end of each academic year based on the date of initial college enrollment. Credit hours cannot include remedial, continuing education, exempted credit hours (such as AP, CLEP, IB, etc.), credit hours earned before high school graduation (dual enrollment) and credit hours earned the summer term immediately following high school graduation. Credit hours earned before high school graduation, including Advanced Placement (AP) credit hours, International Baccalaureate (IB) credit hours, exempted credit hours as well as credit hours earned on active duty, must be placed on the student's official college transcript by the institution at which they are earned, and be counted toward the annual credit hour requirement for the purposes of the Palmetto Fellows Scholarship Enhancement.

C. "Approved five-year bachelor's degree program" is defined as a five-year bachelor's program that is defined and approved by the Commission on Higher Education to receive the Palmetto Fellows Scholarship for a maximum of ten terms and the Scholarship Enhancement for a maximum of eight terms at the same eligible independent or public institution in order to complete the requirements for a bachelor's degree. An approved five-year bachelor's degree program does not include institutional and cooperative "3 plus 2" programs.

D. "Bachelor's degree program" is defined as an undergraduate program of study leading to the first bachelor's degree as defined by the U.S. Department of Education.

E. "CIP (Classification of Instructional Program) Code" is defined as the U.S. Department of Education's standard for federal surveys and state reporting for institutional data (majors, minors, options and courses). For the purpose of receiving the Palmetto Fellows Scholarship Enhancement, CIP Codes have been approved by the Commission on Higher Education for eligible degree programs in the fields of mathematics and science.

F. "Continuing education coursework" is defined as postsecondary courses designed for personal development and that cannot be used as credit toward a degree.

G. "Continuously enrolled" is defined as enrollment without an interruption that would require the student to pursue a formal process of readmission to that institution. Formal petitions or applications for change of degree level shall be considered readmissions with the exception of students changing degree level within the programs cited in paragraphs L and HH of this section and students who have been granted preapproved leave status for no longer than one semester by their institution. Continuously enrolled includes summer terms, military mobilization, or students who transfer from a four-year institution only to return to a four-year institution. Students who are enrolled in internships, cooperative work programs, travel study programs, or National or International Exchange Programs that are approved by the home institution are considered

continuously enrolled. Any student who has been suspended, expelled, does not attend subsequent (or consecutive semesters) that does not require a formal process of readmission to that institution, or voluntarily withdraws from a four-year institution and/or enrolls at a two-year institution during the interruption is considered to be no longer continuously enrolled.

H. “Cost-of-attendance” is defined by Title IV regulations and may include tuition, fees, books, room and board, and other expenses related to transportation, disability or dependent care.

I. “Cumulative grade point average (GPA)” is defined as the cumulative institutional GPA used for graduation purposes, which includes dividing the total number of quality points earned in all courses by the total credit hours in all courses attempted at the student’s home institution. The cumulative GPA must be at least a 3.0 at the home institution for graduation purposes at the end of each academic year based on the date of initial college enrollment.

J. “Date of initial college enrollment” is defined as the first time a student matriculates into a postsecondary degree-granting institution after high school graduation or completion of an approved home school program, excluding the summer term immediately prior to the student’s enrollment in the first regular academic year. Students must remain continuously enrolled as any break in enrollment (excluding summer) will count toward the student’s terms of eligibility.

K. For the purposes of the Scholarship Enhancement, “declared major” is defined as an eligible degree program in which a student is enrolled as a full-time, degree-seeking student. The student must meet all requirements as stipulated by the policies established by the institution and the academic department the student is enrolled in a declared major in an eligible degree program. Students cannot take courses related to a specific program without meeting institutional and departmental policies and be considered enrolled in a declared major. Students must be enrolled in a declared major in an eligible degree program that is approved and assigned a CIP code by the Commission. Eligible degree programs are those listed as such on the Commission’s Web site. Students who change their declared major from an ineligible degree program to an eligible degree program within the same academic year shall not receive the Palmetto Fellows Scholarship Enhancement for that academic year. Additionally, students who change their declared major from an eligible degree program to an ineligible degree program within the same academic year will not lose eligibility until the next academic year.

L. “Degree-seeking student” is defined as a student enrolled full-time in a program of study that leads to the first bachelor’s degree, first approved five-year bachelor’s degree or a program of study that is structured so as not to require a bachelor’s degree at an eligible independent or public institution. Students must maintain their undergraduate status in order to receive the Palmetto Fellows Scholarship and the Scholarship Enhancement each academic year, with the exception of students enrolled in the following programs: 1) Master of Science in Physician Assistant Studies at the Medical University of South Carolina; 2) Master of Science in Cytology and Biosciences at the Medical University of South Carolina; 3) Doctor of Pharmacy at the Medical University of South Carolina and the University of South Carolina (S.C. College of Pharmacy); and 4) Doctor of Pharmacy at Presbyterian College.

M. “Eligible degree program” is defined for the purposes of the Palmetto Fellows Scholarship Enhancement as a degree program in mathematics or science as approved by the SC Commission on Higher Education. These programs include science or mathematics disciplines, computer science or informational technology, engineering, health care and health care related disciplines (including nursing, pre-medicine and pre-dentistry) as defined by the Commission on Higher Education. Enrollment in a minor does not meet the requirements of an eligible degree program for the Palmetto Fellows Scholarship Enhancement. Students must be enrolled in a declared major in an eligible degree program that is approved and assigned a CIP Code by the Commission. Eligible degree programs are those listed as such on the Commission’s Web site.

122 FINAL REGULATIONS

N. "Eligible high school" is defined as a public or private high school located within South Carolina, an approved home school program as defined in relevant State Statute (Sections 59-65-40, 45, and 47) or a preparatory high school located outside of the State while the student is a dependent of a legal resident of South Carolina who has custody or pays child support and college expenses of the dependent high school student in accordance with Section 59-112-10. A "preparatory high school" (out-of-state) is defined as a public or private school recognized by the state in which the school is located to offer curricula through the twelfth grade and prepares students for college entrance.

O. "Early awards" is defined as a period determined by CHE to apply for the Palmetto Fellows Scholarship. Application must be made through the students' high school. This period is generally from October through December of the academic year.

P. "Early graduate" is defined as a student who graduates mid-year their senior year.

Q. "Eligible institution" is defined as a SC four-year public or independent bachelor's level institution.

R. "Felonies" are defined as crimes classified under State statute (Section 16-1-10) for which the punishment in federal or state law and typically requires imprisonment for more than one year.

S. "Fifth year" is defined as the ninth or tenth consecutive term of undergraduate coursework in an approved five-year bachelor's program. The fifth year is based on the student's date of initial college enrollment after graduation from high school.

T. "First/freshman year" is defined as the first or second consecutive term of undergraduate coursework following high school graduation.

U. "For graduation purposes" is defined as any grade or credit hour that the home institution requires in accordance with their policies and procedures for graduation of the student, including electives and additional coursework.

V. "Fourth year" is defined as the seventh or eighth consecutive term of undergraduate coursework. The fourth year is based on the student's date of initial college enrollment after graduation from high school.

W. "Full-time student" shall mean a student who has matriculated into a program of study leading to the first bachelor's degree, first approved five-year bachelor's degree or a program of study that is structured so as not to require a bachelor's degree and leads to a graduate degree and who enrolls full-time, usually fifteen credit hours for the fall and fifteen credit hours for the spring term. In order for the student to be eligible for Scholarship disbursement, the student must be enrolled full-time at the home institution as stipulated by Title IV Regulations, except that credit hours may not include remedial coursework or continuing education coursework.

X. "Gift aid" is defined as scholarships and grants that do not nor will not under any circumstance require repayment, and excludes any self-help aid such as student loans and work-study.

Y. "Home institution" is defined as the independent or public institution where the student is currently enrolled as a full-time, degree-seeking student and may be eligible for financial aid at the same institution.

Z. "Independent institutions" are defined, for the purposes of the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement Programs, as those four-year institutions eligible to participate in the South Carolina Tuition Grants Program as defined in Chapter 113 of Title 59 of the 1976 Code, which stipulates that an "independent institution of higher learning means any independent eleemosynary junior or senior college in South Carolina whose major campus and headquarters are located within South Carolina and which is accredited by the Southern Association of Colleges and Schools; or an independent bachelor's level

institution which was incorporated in its original charter in 1962, was granted a license to operate in 1997 by the Commission on Higher Education, has continued to maintain a campus in South Carolina, and is accredited by the Southern Association of Colleges and Schools. Institutions whose sole purpose is religious or theological training or the granting of professional degrees do not meet the definition of ‘public or independent institutions’ for purpose of this charter”. Two-year independent institutions are not eligible to participate in the Palmetto Fellows Scholarship Program.

AA. “Ineligible degree program” is defined for the purposes of the Palmetto Fellows Scholarship Enhancement as any degree program that is not on the Commission’s posted list of eligible degree programs.

BB. “Late awards” is defined as a period determined by CHE for high school seniors to apply for the Palmetto Fellows Scholarship. Application must be made through the students’ high school. This period is generally from April through June of the academic year.

CC. “Lawful Presence” is defined as individuals who are US citizens, permanent residents, or non-US citizens and non-permanent residents who are legally present in the US. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien’s immigration status with the federal government pursuant to 8 USC Section 1373(c). Only those individuals whose lawful presence in the US has been verified prior to initial college enrollment may receive the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement.

DD. “Military mobilization” is defined as a situation in which the U.S. Department of Defense orders service members to active duty away from their normal duty assignment during a time of war or national emergency. Service members include: 1) active duty and reserve members in the Army, Navy, Air Force, Marine Corps and Coast Guard, and; 2) members of the Army and Air National Guard.

EE. “Misdemeanor offenses” are defined as crimes classified under State statute (Section 16-1-100), less serious than felonies, and are typically punishable by fine or imprisonment for less than one year. A complete listing is located under Title 16 of State statute. Examples of alcohol and/or drug-related misdemeanor offenses in South Carolina include, but are not limited to, possession of alcohol while under the age of 21, possession of marijuana/illegal drugs, open container, transfer of alcohol to persons under 21, providing false information as to age (fake identification), etc.

FF. “Multi-handicapped student” shall be defined as a student who, in addition to being visually or hearing impaired, has at least one additional disabling condition that qualifies the student to receive specialized postsecondary education.

GG. “Palmetto Fellow” is defined as a student awarded the Palmetto Fellows Scholarship during his/her senior year of high school and continues to meet all eligibility requirements to receive the Palmetto Fellows Scholarship. A Palmetto Fellow who is not awarded any Palmetto Fellows Scholarship funds due to the cost of attendance being met by other sources of financial aid will still be classified as a Palmetto Fellow.

HH. “Program of study that is structured so as not to require a bachelor’s degree” shall be defined as a program of study that is structured so as not to require a bachelor’s degree for acceptance into the program and leads to a graduate degree, which will be the student’s first academic degree awarded, as defined by the U.S. Department of Education. Students are eligible for a maximum of eight terms as long as all other eligibility criteria are met and the program is approved by the Commission on Higher Education. Students must maintain their undergraduate status each academic term, with the exception of students enrolled in the following programs: 1) Master of Science in Physician Assistant Studies at the Medical University of South Carolina; 2) Master of Science in Cytology and Biosciences; 3) Doctor of Pharmacy at the University of South Carolina and the Medical University of South Carolina (S.C. College of Pharmacy); and 4) Doctor of Pharmacy at Presbyterian College. Students who have been awarded a bachelor’s or graduate degree are not eligible for funding.

124 FINAL REGULATIONS

II. "Public institutions" are defined, for the purposes of the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement Programs, as those four-year bachelor's degree-granting institutions as defined in Chapter 103 of Title 59 of the 1976 Code, which stipulates "public higher education shall mean state-supported education in the postsecondary field." Public two-year institutions and technical colleges are not eligible for participation in this Program.

JJ. "Reapplication student" is defined as a student who applied for and was offered the Palmetto Fellows Scholarship as a senior in high school, but declined the award to attend an out-of-state, four-year institution the fall term immediately following high school graduation or attends an out-of-state institution at any time during the eight eligible terms. After attending an out-of-state four-year institution, the student must return to SC, enroll in an eligible SC four-year institution, and make a request to CHE for reapplication for the Palmetto Fellows Scholarship.

KK. "Remedial coursework" shall be defined as sub-collegiate level preparatory courses in English, mathematics, reading or any other course deemed remedial by the institution where the course is taken.

LL. "Second year" is defined as the third or fourth consecutive term of full-time, undergraduate coursework. The second year is based on the student's date of initial college enrollment after graduation from high school.

MM. "South Carolina resident" is defined as an individual who satisfies the requirements of residency in accordance with the state of South Carolina's Statute for Tuition and Fees, Section 59-112-10, and all related guidelines and regulations promulgated by the Commission on Higher Education as determined by the institutional residency officer each academic year.

NN. "Satisfactory academic progress in a declared major" is defined for the purposes of the Scholarship Enhancement as the progress required by the institution and academic department in which the student is enrolled as a full-time, degree-seeking student. Students must meet all requirements for satisfactory academic progress toward degree completion in their declared major as established by the policies of both the institution and the declared major in which the student is enrolled to meet the requirements of satisfactory academic progress.

OO. "Substantially deviates" shall be defined, for the purposes of reviewing out-of-state preparatory high school grading scales, as being less than equivalent to the current South Carolina Uniform Grading Policy.

PP. "Transfer student" is defined, for the purposes of the Program, as a student who has changed full-time enrollment from one eligible independent or public institution to another eligible independent or public institution.

QQ. "Transient student" is defined as a student enrolled in a non-matriculated status, which means he/she is granted temporary admission to earn credit hours that will transfer back to his/her home institution toward a degree. A transient student is not eligible to receive the Palmetto Fellows Scholarship or the Scholarship Enhancement unless the student is participating in a program that is both approved and accepted as full-time transfer credit by the home institution.

RR. "Third year" is defined as the fifth or sixth consecutive term of undergraduate coursework. The third year is based on the student's date of initial college enrollment after graduation from high school.

62-315. Initial Eligibility for Palmetto Fellows Scholarship.

A. In order to qualify for consideration for a Palmetto Fellows Scholarship, a student must:

1. Meet the eligibility criteria stipulated under the "Palmetto Fellows Scholarship Application" Section;

2. Be enrolled as a senior in an eligible high school;
 3. Be classified as a South Carolina resident at the time of college enrollment;
 4. Be a U.S. citizen or a lawful permanent resident that meets the definition of an eligible non-citizen under State Residency Statutes whose lawful presence in the US has been verified at the time of enrollment at the institution. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c). A student must be a legal permanent resident of the United States before being considered to be a South Carolina resident;
 5. Be seriously considering attending, have applied, or have been accepted for admission to an eligible four-year bachelor's degree-granting independent or public institution in South Carolina as a first-time, full-time, degree-seeking student; and
 6. Certify that he/she has never been adjudicated delinquent, convicted or pled guilty or *nolo contendere* to any felonies and any second or subsequent alcohol, or drug related offenses under the laws of this or any other state or under the laws of the United States by submitting a signed affidavit each academic year to the home institution testifying to the fact, except that a high school or college student who has been adjudicated delinquent, convicted, or pled guilty or *nolo contendere* of a second or subsequent alcohol or drug related misdemeanor offense is only ineligible the next academic year of enrollment in an eligible independent or public institution after the date of the adjudication, conviction or plea. If the adjudication, conviction, or plea occurs during the academic year after the student has already submitted a signed affidavit to the home institution, the student will continue to be eligible for the remainder of that academic year. However, the student will be ineligible the following academic year of enrollment. If a student completes a pretrial intervention program and subsequently has his/her record expunged, the conviction will not affect the student's eligibility;
 7. Submit the official Palmetto Fellows Scholarship Application by the established deadline(s) and comply with all the directions contained therein.
- B. The high schools shall ensure that all students meeting the eligibility criteria are given the opportunity to be included in the applicant pool.
- C. A student who graduates immediately after the high school sophomore year is eligible to apply for the Palmetto Fellows Scholarship, providing that the student meets all eligibility requirements as described in the "Initial Eligibility" Section and providing that the student is entering an eligible independent or public four-year institution no later than the fall term immediately following high school graduation.
- D. A student who graduates in December/January of the high school senior year (considered an early graduate) is eligible to apply for the Palmetto Fellows Scholarship during early awards, provided that the student meets all eligibility requirements as described in the "Initial Eligibility" Section and provided that the student is entering an eligible independent or public four-year institution no later than the fall term immediately following high school graduation. Early graduates who plan to begin college enrollment the spring term may apply to receive the LIFE Scholarship through the Commission on Higher Education. Early graduates must be certified by the high school principal that they have met the SC graduation requirements. If the student is subsequently awarded the Palmetto Fellows Scholarship, then the student will receive the Palmetto Fellows Scholarship the fall term immediately following high school graduation for up to a maximum of seven terms. Students must enroll full-time continuously at a four-year institution the fall term immediately upon high school graduation.
- E. Students cannot earn eligibility for the Palmetto Fellows Scholarship after high school graduation. All students must apply and be awarded during the high school senior year.

126 FINAL REGULATIONS

F. Students receiving the Palmetto Fellows Scholarship are not eligible for the LIFE Scholarship, SC HOPE Scholarship or Lottery Tuition Assistance within the same academic year.

G. Any student who attempts to obtain or obtains the Palmetto Fellows Scholarship through means of a willfully false statement or failure to reveal any material fact, condition or circumstances affecting eligibility will be subject to applicable civil or criminal penalties, including loss of the Palmetto Fellows Scholarship.

62-318. Eligibility for Palmetto Fellows Scholarship Enhancement.

A. To be eligible for the Palmetto Fellows Scholarship Enhancement each academic year, a student must be:

1. A Palmetto Fellow at the time the Scholarship Enhancement is disbursed;
2. Enrolled full-time, degree-seeking in a declared major in an eligible degree program;
3. Making satisfactory academic progress toward completion of his/her declared major; and
4. Enrolled in the second year, third year, fourth year, or fifth year (if enrolled in a Commission approved five-year bachelor's degree) at an eligible four-year independent or public institution.

B. Students must successfully complete at least fourteen credit hours of instruction in mathematics or life and physical science or a combination of both at the end of the first year for the 2007 freshman class and thereafter. For the purpose of meeting the fourteen credit hour requirement at the end of the student's first year, exempted credit hours (AP, CLEP, IB, etc), credit hours earned while in high school (dual enrollment, credit hours earned during the summer session immediately prior to the student's date of initial college enrollment, Pass/Fail courses with a grade of "Pass" (only), International Baccalaureate (IB) courses and Advanced Placement (AP) courses in mathematics and life and physical sciences taken in high school in which the student scored a three or more on the advanced placement test and received college credit may be used. However, remedial coursework and continuing education coursework cannot be used to meet the fourteen credit hour requirement.

C. Any student who attempts to obtain or obtains the Palmetto Fellows Scholarship Enhancement through means of a willfully false statement or failure to reveal any material fact, condition or circumstances affecting eligibility will be subject to applicable civil or criminal penalties, including loss of the Palmetto Fellows Scholarship Enhancement.

62-320. Palmetto Fellows Scholarship Application.

A. The Commission on Higher Education will send information regarding the application process to all South Carolina high schools, home school associations and district superintendents. High schools and/or home school associations that do not receive information regarding the application process from the Commission on Higher Education by the beginning of each application process must contact the Commission for information. It is the sole responsibility of the high schools, home schools, home school associations, and district superintendents to contact CHE regarding the Palmetto Fellows Scholarship program including the application process. High school officials will identify students who meet the specified eligibility criteria by each established deadline. High school officials must submit applications (both electronic and paper documentation) no later than the established deadline(s) along with the appropriate signatures, official transcripts and test score verification to the Commission on Higher Education. High school officials must certify each eligible applicant's signature form. Students who are enrolled at out-of-state high schools are personally responsible for contacting the Commission on Higher Education about the application process and must adhere to the same established deadline(s).

B. The high schools and home school associations must submit a list to the Commission on Higher Education indicating the names of all students who meet the eligibility criteria at their high school. The list should indicate whether the student is submitting a completed application or declining the opportunity to apply. If the student declines the opportunity to apply, the high school will submit a form for each of these students, signed by both the student and the parent/guardian and indicating the reason(s) for not submitting an application. Students who decline to apply for the Scholarship forfeit any future eligibility under this Program.

C. Applications for early awards must be submitted to the Commission on Higher Education for the Palmetto Fellows Scholarship by the date established in December each academic year. Students must meet one of the following set of academic criteria in order to be eligible to apply for the early awards (students cannot use the early awards criteria to apply during the late awards):

1. Score at least 1200 on the SAT or 27 on the ACT through the November test administration of the senior year; earn a minimum 3.50 cumulative GPA on the current SC Uniform Grading Policy (UGP) at the end of the junior year; and rank in the top six percent of the class at the end of either the sophomore or the junior year; or

2. The alternate criteria of a score at least 1400 on the SAT or 32 on the ACT through the November test administration of the senior year and earn a minimum 4.00 cumulative GPA on the UGP at the end of the junior year, without regard to class rank.

3. High schools or home school associations that do not rank as an official policy; or high schools whose grading policy deviates from the current SC Uniform Grading Policy and do not convert the graduating class grades to the current SC UGP to determine class rank, must use the alternate criteria of meeting the academic requirements for the Palmetto Fellow Scholarship.

4. High schools or home school associations shall not use ranking for the sole purpose of obtaining eligibility for the state scholarships.

D. Applications for late awards must be submitted to the Commission on Higher Education for the Palmetto Fellows Scholarship by the date established in June each academic year. Students must meet one of the following set of academic criteria in order to be eligible to apply for the late awards:

1. Score at least 1200 on the SAT or 27 on the ACT through the June test administration of the senior year; earn a minimum 3.50 cumulative GPA on the UGP at the end of the senior year; and rank in the top six percent of the class at the end of the sophomore, junior or senior year; or

2. Score at least 1400 on the SAT or 32 on the ACT through the June test administration of the senior year and earn a minimum 4.00 cumulative GPA on the UGP at the end of the senior year, without regard to class rank.

3. High schools or home school associations that do not rank as a policy; or high schools whose grading policy deviates from the current SC Uniform Grading Policy and that do not convert the graduating class grades to the current SC UGP to determine class rank, must use the alternate criteria of meeting the academic requirements for the Palmetto Fellow Scholarship.

4. High schools or home school associations shall not use ranking for the sole purpose of obtaining eligibility for the state scholarships.

E. Students must have official verification that they earned the requisite score on the SAT or an equivalent ACT score. In order to determine the minimum composite score for the SAT, students must use the highest Math score combined with the highest Critical Reading score. However, students cannot use the Writing

128 FINAL REGULATIONS

subsection score to meet the minimum SAT score requirement. In order to determine the minimum composite score for the ACT, students must use the highest composite score based upon one test administration.

F. Grade point averages must be based on the current SC Uniform Grading Policy, reported with at least two decimal places, and may not be rounded up.

G. Class rank must be based on the SC Uniform Grading Policy using diploma candidates only. Class rank is determined at the end of the sophomore, junior and senior years (not the beginning of the next school year) before including any summer school coursework or including any students who transfer into your high school after the school year ended in May/June. Students cannot be removed from the class because they did not meet the eligibility criteria to apply, declined to apply, are not residents of the State, do not meet citizenship requirements, plan to attend college out-of-state, etc. The class rank information must include all students who attended your high school that school year.

H. The number of students included in the top six percent of the class will be the next whole number if the top six percent is not already a whole number. For example, a class size of 185 students would include the top twelve students since 11.1 rounds up to twelve. For those high schools with fewer than twenty students in the class, the top two students (students ranked as number one and two) shall be considered for the Scholarship regardless of whether they rank in the top six percent of the class. These students must meet all other eligibility criteria.

I. In order to apply for the Palmetto Fellows Scholarship using rank as one of the eligibility criteria, home school students must be a member of an approved home school program (as defined in relevant State Statute) that provides an official class rank for their members. The home school association must submit a rank report on the association's letterhead that includes the class rank and GPA based on the current SC Uniform Grading Policy for all home school students in the applicant's class. If a home school student is unable to obtain rank verification, he/she may also be eligible to apply using the alternative criteria of scoring at least 1400 on the SAT (or 32 on the ACT) and earning a minimum 4.00 cumulative GPA on the UGP, without regard to class rank. These students must meet all other eligibility criteria.

J. For schools or home school associations that do not rank as an official policy, students must use the alternate criteria to meet eligibility requirements for the Palmetto Fellows Scholarship.

K. For the purposes of meeting the rank criterion, the existing high school rank of a South Carolina resident attending an out-of-state high school may be used, provided it is calculated pursuant to a state-approved, standardized grading scale at the respective out-of-state high school. If the Commission on Higher Education determines that a state-approved standardized grading scale substantially deviates from the S.C. Uniform Grading Scale, the state-approved, standardized grading scale shall not be used to meet the eligibility requirements for the Palmetto Fellows Scholarship. The guidance counselor from the out-of-state preparatory school also has the option of converting the cumulative GPAs of all students in the applicant's class to the current SC UGP to determine if the student ranks within the top six percent of the class and must provide a ranking report that identifies all students in the applicant's class and their respective GPA's based on the SC UGP. When converting scores to the SC UGP, weighting must adhere to the SC UGP (i.e. honors no more than .50 and AP/IB no more than 1.0). In addition, scores/grades must correspond to the SC UGP. For example, if a student earned a 90 in an honors class, the conversion of the scores/grades must be equivalent to the points assigned according to the current SC UGP. To be considered equivalent, the out-of-state school's grading scale must adhere to the following minimum requirements:

1. Must include all courses carrying Carnegie units, including units earned at the middle school and high school level;

2. To be equivalent to an "A" letter grade, the numerical average must be ≥ 93 ; to be equivalent to a "B" letter grade the numerical average must be between 85 and 92; to be equivalent to a "C" letter grade the

numerical average must be between 77 and 84; to be equivalent to a “D” letter grade the numerical average must be between 70 and 76; and to be equivalent to a “F” letter grade the numerical average must be between 62 and 69 (if a course with a numerical average of < 62 is considered passing by the high school the student earned the grade, then a 73 numerical average should be given);

3. Cannot add more than one half (.50) additional quality point for honors courses; cannot add more than one additional quality point for dual enrollment (DE) courses, Advanced Placement (AP) courses, and standard level International Baccalaureate (IB) courses; and, cannot add more than two additional quality points for higher level IB courses;

4. Must classify all other courses as College Preparatory if they are not already classified as honors, DE, AP or IB. For a class to be classified as honors, the course must be in English, mathematics, science or social studies or be the third/fourth level for all other content areas; and

5. If no numerical average is available, all letter grades must be converted to the equivalent numerical average based on the following: all “A” letter grades must be converted to a 96 numerical average, all “B” letter grades must be converted to a 88 numerical average, all “C” letter grades must be converted to a 80 numerical average, all “D” letter grades must be converted to a 73 numerical average, and all “F” numerical averages must be converted a 61 numerical average.

L. Students who attend out-of-state preparatory high school may also be eligible to apply by using the alternative criteria of scoring at least 1400 on the SAT (or 32 on the ACT) and earning a minimum 4.00 cumulative GPA on the current SC Uniform Grading Policy. The student’s guidance counselor must convert the student’s grades to the UGP to determine if the student meets the GPA requirement These students must meet all other eligibility criteria, including South Carolina residency requirements.

62-325. Palmetto Fellows Scholarship Selection Process.

A. The Commission on Higher Education will notify students of their selection as a Palmetto Fellow along with the terms and conditions of the award.

B. Students who have met the academic requirements of the Scholarship must return a form to the Commission that designates an eligible four-year independent or public institution in which they plan to enroll by the date established by the Commission on Higher Education. The Palmetto Fellows Scholarship will only be awarded to those students who have a lawful presence in the United States and have been identified as a SC resident at the time of initial college enrollment.

C. Visually impaired, hearing impaired or multi-handicapped students who qualify for the Scholarship may use the Palmetto Fellows Scholarship to attend a four-year out-of-state institution that specializes in educating students with their impairment upon receiving prior approval from the Commission on Higher Education. The Commission on Higher Education shall make the final decision whether an out-of-state institution specializes in the postsecondary education of visually impaired, hearing impaired or multi-handicapped students.

D. The Commission on Higher Education shall ensure that there is equitable minority participation in the Program.

62-330. Policies and Procedures for Awarding the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement.

A. The institution will identify award amounts, which cannot exceed:

1. \$6,700 the first/freshman year and \$7,500 for the second year, third year, fourth year and fifth year for the Palmetto Fellows Scholarship;

130 FINAL REGULATIONS

2. \$2,500 for the second year, third year, fourth year and fifth year for the Palmetto Fellows Scholarship Enhancement.

B. Half shall be awarded during the fall term and half during the spring term. Palmetto Fellows Scholarships and Palmetto Fellows Scholarship Enhancements are to be used only toward payment for cost-of-attendance as established by Title IV Regulations with modifications set forth in D below for the academic year the award is made at the designated independent or public institution. The maximum amount awarded shall not exceed the cost-of-attendance as established by Title IV Regulations for any academic year.

C. Students who change their major from an ineligible degree program to an eligible degree program during the same academic year cannot be awarded the Palmetto Fellows Scholarship Enhancement until the next academic year. Additionally, students who change their major from an eligible degree program to an ineligible degree program during the same academic year will retain their Palmetto Fellows Scholarship Enhancement eligibility for the remainder of the current academic year.

D. Charges for room and board are to be limited as follows:

1. Room charges shall not exceed the average cost of on-campus residential housing; and

2. Board charges shall not exceed the cost of the least expensive campus meal plan that includes 21 meals per week.

E. In determining the amount awarded for the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement, all other sources of gift aid, including federal, State, private and institutional funds, must be applied to the unmet cost-of-attendance before calculating the Scholarship and Enhancement amounts and making the award. Adjustments to the financial aid package will be made to the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement in accordance with prescribed Title IV regulations in order to prevent an over-award.

F. Although a student may be named a Palmetto Fellow, the student may not receive a monetary award, if the award when combined with all other sources of gift aid would cause the student to receive financial assistance in excess of the student's cost-of-attendance as defined by Title IV regulations and the guidelines contained herein.

G. Eligible four-year independent and public institutions will notify students of their award along with the terms and conditions.

H. Effective Fall 2008, Section 59-101-430 (A), Chapter 101, Title 59 of the 1976 Code states that unlawful aliens are prohibited from attending SC Public institutions of higher learning. This does apply to students who are currently enrolled, as well as new enrollees. In accordance of this law, institutions must institute a process that verifies an individual's lawful presence in the United States. This process must verify any alien's immigration status with the federal government. Students receiving the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement must be verified. Any student that is not verified and documented by the institution will not receive the Scholarship.

I. All eligible independent and public institutions that participate in the program must verify the lawful presence in the US of any student who receives a Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement prior to awarding the Scholarship to the student. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

J. The institution must retain annual paper or electronic documentation for each award to include at a minimum:

1. Institutional Student Information Record (ISIR) or affidavit documenting that the student is not in default or does not owe a refund on any state or federal financial aid
2. Affidavit documenting that the student has never been convicted of any felonies and has not been convicted of any second or subsequent alcohol/drug-related misdemeanor offense within the past academic year as stated under “Initial Eligibility” and “Duration and Renewal of Awards” Sections
3. Award notification
4. Institutional disbursements to student
5. Verification student is not in default and does not owe a refund or repayment
6. Student’s residency status and citizenship status
7. Enrollment status and degree-seeking status
8. Verification of cumulative GPA and annual credit hours for renewal purposes
9. Verification from the institutional Disability Services Provider of student’s disability and approval of reduced course-load requirement (if appropriate)
10. Military mobilization orders (if appropriate)
11. Verification student met fourteen credit hour requirement at the end of the first year of college enrollment for the 2007-08 freshman class and thereafter (Palmetto Fellows Scholarship Enhancement purposes only)
12. Verification from academic department of enrollment in a declared major in an eligible degree program (Palmetto Fellows Scholarship Enhancement purposes only).
13. Verification from the institution that lawful presence in the US, and has been verified.

K. It is the institution's responsibility to ensure that only eligible students receive the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement.

L. The student shall be required to provide a nationally recognized unique identifier in order for the institution to award, disburse, and/or transfer the student’s state scholarship and/or grant to an eligible institution.

62-335. Duration and Renewal of Awards.

A. The Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement where applicable shall be initially awarded for one academic year. The institution shall adjust the amount of the Scholarship and Enhancement awards during the academic year in the event of a change in the student's eligibility.

B. Students selected as Palmetto Fellows must enter an eligible four-year independent or public institution the fall term immediately following high school graduation. Students must be continuously enrolled at an eligible four-year institution. Students with a break in continuous full-time enrollment at a four-year institution or initially enrolling at a two-year institution the fall term after high school graduation will forfeit the scholarship.

132 FINAL REGULATIONS

C. A Palmetto Fellows Scholarship may be renewed annually for no more than a total of eight terms (based on the date of initial college enrollment) toward the first bachelor's degree or a program of study that is structured so as not to require a bachelor's degree and leads to a graduate degree or for no more than a total of ten terms (based on the date of initial college enrollment) toward the first approved five-year bachelor's degree. The Palmetto Fellows Scholarship Enhancement may not be awarded for no more than a total of six terms (based on the date of initial college enrollment) toward the first bachelor's degree or a program of study that is structured so as not to require a bachelor's degree and leads to a graduate degree or for no more than a total of eight terms (based on the date of initial college enrollment) toward the first approved five-year bachelor's degree. Students who have already been awarded their first bachelor or graduate degree are not eligible to receive the Palmetto Fellows Scholarship or the Palmetto Fellows Scholarship Enhancement.

D. The institution is responsible for obtaining institutional certification of each recipient's cumulative grade point average and annual credit hours for the purposes of determining eligibility for award renewal. For the Palmetto Fellows Scholarship Enhancement, the institution must also obtain verification from the academic department of enrollment in a declared major in an eligible degree program.

E. By the end of the spring term each academic year, the institution must notify all Palmetto Fellows who have not met the continued eligibility requirements for the next academic year. The notification should include information regarding the student's ability to attend summer school in order to meet the continued eligibility requirements.

F. The eligible four-year independent or public institution is responsible for reporting to the Commission on Higher Education credit hours earned at the home institution only. Transfer credit hours cannot be reported by the home institution.

G. In order to retain eligibility for the Palmetto Fellows Scholarship after the initial year, the student must meet the following continued eligibility requirements:

1. Enroll and be continuously enrolled at an eligible four-year public or independent institution as a full-time, degree-seeking student at the time of Scholarship disbursement;

2. Earn at least a 3.0 cumulative GPA at the home institution for graduation purposes by the end of each academic year;

3. Earn a minimum of thirty credit hours for graduation purposes by the end of each academic year. Exempted credit hours (such as AP, CLEP, etc.), credit hours earned before high school graduation, and credit hours earned the summer term immediately following high school graduation cannot be used to meet the annual credit hour requirement;

4. Certify each academic year that he/she has not defaulted and does not owe a refund or repayment on any federal or state financial aid. If a student has an Institutional Student Information Record (ISIR) or its equivalent on file, the ISIR information will be used to verify default status or refund/repayment owed. Students who have not completed the Free Application for Federal Student Aid (FAFSA) must have an affidavit on file to verify that he/she is not in default and does not owe a refund or repayment on any federal or state financial aid, including the state grants/scholarships, Pell Grant, Supplemental Educational Opportunity Grant, Federal Perkins or Stafford Loan; and

5. Certify each academic year that he/she has never been adjudicated delinquent, convicted or pled guilty or *nolo contendere* to any felonies and any second or subsequent alcohol/drug-related misdemeanor offenses under the laws of this or any other state or under the laws of the United States by submitting a signed affidavit to the home institution. However, a high school or college student who has been adjudicated delinquent, convicted, or pled guilty or *nolo contendere* of a second or subsequent alcohol or drug-related misdemeanor offense is only ineligible for the next academic year of enrollment at an eligible independent or public

institution after the date of the adjudication, conviction or plea. If the adjudication, conviction or plea occurs during the academic year after the student has already submitted a signed affidavit to the institution, the student will continue to be eligible for the remainder of the academic year. However, the student will be ineligible for the Scholarship for the following academic year of enrollment. If a student completes a pretrial intervention program and his/her record is subsequently expunged, the charge will not affect Scholarship eligibility.

H. In order to retain eligibility for the Palmetto Fellows Scholarship Enhancement, a student must:

1. Be a Palmetto Fellow at the time the Scholarship Enhancement is disbursed;
2. Be enrolled and continuously enrolled at an eligible four-year public or independent institution as a full-time, degree-seeking student in a declared major in an eligible degree program;
3. Be making satisfactory academic progress toward completion of his/her declared major;
4. Be enrolled in the second year, third year, fourth year or fifth year (if enrolled in a Commission approved five-year bachelor's degree) at an eligible four-year independent or public institution; and
5. Successfully complete at least fourteen credit hours of instruction in mathematics or life and physical science or a combination of both at the end of the first year for the 2007 freshman class and thereafter. For the purpose of meeting the fourteen credit hour requirement at the end of the student's first year, exempted credit hours (AP, CLEP, IB, etc), credit hours earned while in high school (dual enrollment), and credit hours earned during the summer session immediately prior to the student's date of initial college enrollment may be used. However, remedial coursework and continuing education coursework cannot be used to meet the fourteen credit hour requirement. Palmetto Fellows who were already enrolled in at least their second year in the 2007-2008 academic year only are not required to meet the fourteen credit hour requirement at the end of their first/freshman year.

I. Any student who attempts to obtain or obtains a Palmetto Fellows Scholarship or Palmetto Fellows Scholarship Enhancement through means of a willfully false statement or failure to reveal any material fact, condition, or circumstances affecting eligibility will be subject to applicable civil or criminal penalties, including loss of the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement.

62-340. Transfer of or Reapplication for the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement.

A. Palmetto Fellows enrolled at an eligible four-year independent or public institution may transfer to another four-year eligible independent or public institution in South Carolina upon obtaining prior approval from the Commission on Higher Education by submitting a transfer form, which is available on the Commission's Web site.

B. A student who applied for and was offered the Palmetto Fellows Scholarship as a senior in high school, but declined the award to attend an out-of-state four-year institution the fall term immediately following high school graduation or a student who attends an out-of-state institution at any time during the eight eligible terms, must reapply if they transfer to an eligible four-year independent or public institution in South Carolina. The reapplication form is available on the Commission's Web site.

C. Transfer students and reapplication students are only eligible to receive the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement for the remaining terms of eligibility (based on the date of initial college enrollment).

134 FINAL REGULATIONS

D. Transfer students and reapplication students must comply with all standards for continued eligibility as defined under the “Duration and Renewal of Awards” Section in order for their award to be eligible for transfer.

E. The eligible four-year independent or public institution is responsible for reviewing all Palmetto Fellows transferring to their institution to determine whether the students are eligible for the Palmetto Fellows Scholarship Enhancement.

F. The eligible four-year independent or public institution is responsible for reporting to the Commission on Higher Education credit hours earned at their institution only. Transfer credit hours cannot be reported by the home institution.

62-345. Students with Disabilities.

A. Palmetto Fellows who qualify under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 must meet all eligibility requirements as defined in the “Initial Eligibility” Section, except for the full-time enrollment requirement, in order to be eligible to receive funding. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

B. For renewal, Palmetto Fellows who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 must meet all renewal requirements as defined in the “Duration and Renewal of Awards” Section, except for a student not meeting the annual credit hour requirement who is approved by the Disability Services Provider at the home institution to be enrolled in less than full-time status or less than the required annual credit hours for that academic year. Each academic year for award renewal, students must earn the required number of hours approved by the institutional Disability Services Provider at the home institution and earn a minimum 3.0 cumulative grade point average at the home institution for graduation purposes. Students must comply with all institutional policies and procedures in accordance with ADA and Section 504 of the Rehabilitation Act of 1973.

C. The institutional Disability Services Provider must provide written documentation to the Office of Financial Aid prior to each academic year verifying that the student is approved to be enrolled in less than full-time status or less than the required annual credit hours. It is the responsibility of transfer students and reapplication students to provide written documentation from the previous institutional Disability Services Provider.

D. Palmetto Fellows who qualify under ADA and Section 504 of the Rehabilitation Act of 1973 are eligible to receive up to the maximum number of available terms and available funds.

62-350. Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, or National or International Student Exchange Programs.

A. Students enrolled in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as full-time transfer credit are eligible to receive Palmetto Fellows Scholarship and Palmetto Fellow Scholarship Enhancement funds during the period in which the student is enrolled in such programs. Students will be required to meet the continued eligibility requirements.

B. Eligible students may use the appropriated portion of the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement funds for internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs that are approved by the home institution and that the home institution accepts as full-time transfer credit. Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement funds must be paid directly to the student’s account at the home institution. The amount awarded cannot exceed the cost-of-attendance at the home institution or the cost-of-attendance at the

host institution, whichever is less. The Commission on Higher Education will not transfer funds to the institutions where students will participate in internships, cooperative work programs, travel study programs, or National or International Student Exchange Programs. The home institution is responsible for funds according to the "Program Administration and Audits" Section.

C. Students who enroll in one academic term at the home institution and also enroll in an internship, cooperative work program, travel study program, or National or International Student Exchange Program that are approved by the home institution and that do not award full-time transfer credit during the same academic year must earn at least fifteen credit hours and a minimum 3.0 cumulative grade point average at the home institution for graduation purposes by the end of the academic year to be eligible for renewal the next academic year. The student may continue to be eligible for up to the maximum terms of eligibility based on the date of initial college enrollment (provided the student meets the continued eligibility requirements).

D. For students enrolling in an internship, cooperative work program, travel study program, or National or International Student Exchange Program that is approved by the home institution but does not award full-time transfer credit for the entire academic year, renewal for the next academic year will be based on the prior year's eligibility. The student may continue to be eligible for up to the maximum terms of eligibility based on the date of initial college enrollment (provided the student meets the continued eligibility requirements).

E. Students enrolling in an internship, a cooperative work program, a travel study program, or National or International Student Exchange Program that are approved by the home institution during the academic year and did not use their entire eligibility for the Palmetto Fellows Scholarship or the Palmetto Fellows Scholarship Enhancement funds during this period shall be allowed to receive one term of Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement funds during the succeeding summer or at the end of the maximum terms of eligibility based on the date of initial college enrollment (provided the student meets the continued eligibility requirements). In order to receive the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement funds for the succeeding summer term, students must enroll in twelve credit hours at the home institution. In order to maintain eligibility for the next academic year for students who only attend summer school, the student must earn at least twelve credit hours by the end of the academic year. For students who enroll in summer school and one other term of the academic year, the student must earn a total of at least 27 credit hours by the end of the academic year. The student must meet all continued eligibility requirements, except for the completion of the annual credit hour requirement for the academic year.

F. The home institution will be responsible for obtaining official certification of the student's cumulative grade point average and annual credit hours earned for purposes of determining eligibility for Scholarship and Enhancement renewal for the next academic year. For purposes of Enhancement eligibility, the home institution must also obtain certification from the academic department of enrollment in a declared major in an eligible degree program.

62-351. Military Mobilization.

A. Service members who are enrolled in college and are affected by military mobilizations will not be penalized for the term they are required to withdraw after the full refund period based on the institutional policies and procedures. Institutions are strongly encouraged to provide a full refund of required tuition, fees and other institutional charges or to provide a credit in a comparable amount against future charges for students who are forced to withdraw as a result of military mobilization. Additionally, the term(s) that the service member is mobilized will not count against the maximum terms of eligibility. The service member shall be allowed to receive the unused term(s) while mobilized during the succeeding summer term or at the end of the maximum terms of eligibility (provided the service member meets continued eligibility requirements). The service member must re-enroll in an eligible independent or public institution within twelve months upon their demobilization and provide official documentation to verify military deployment to the institutional Financial Aid Office upon re-enrollment. Reinstatement will be based upon the service member's eligibility at the time he/she was mobilized. If the service member re-enrolls after the twelve month

136 FINAL REGULATIONS

period, the service member must submit an Appeal Application to the Commission on Higher Education by the established deadline in order to be considered for reinstatement.

B. Service members who are enrolled in college and are mobilized for a minimum of one academic year may be eligible the next academic year, if they met the continued eligibility requirements at the end of the last academic year of attendance. Service members may continue to be eligible for up to the maximum terms of eligibility based on the date of initial college enrollment (provided the service member meets the continued eligibility requirements).

C. Service members who are enrolled in college and are mobilized for one academic term must complete at least fifteen credit hours and a minimum 3.0 cumulative grade point average at the home institution for graduation purposes by the end of the academic year to be eligible for renewal for the next academic year. Service members may continue to be eligible for up to the maximum terms of eligibility based on the date of initial college enrollment (provided the service member meets the continued eligibility requirements).

D. In order to receive the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement for summer school for any unused term(s), the service member must enroll in twelve credit hours during the succeeding summer term at the home institution. For service members who enroll in summer school and one other term of the academic year, the service member must earn a total of at least twenty-seven credit hours by the end of the academic year. In order to maintain eligibility for the next academic year for service members who only attend summer school, the member must earn at least twelve credit hours by the end of the academic year. The service member must meet all continued eligibility requirements, except for the completion of the annual credit hour requirement for the academic year.

E. The home institution will be responsible for obtaining verification of military mobilization status, cumulative grade point average and annual credit hours for the purpose of determining eligibility to renew the Palmetto Fellows Scholarship for the next academic year. For purposes of the Palmetto Fellows Scholarship Enhancement, the home institution must also obtain certification from the academic department of enrollment in a declared major in an eligible degree program.

62-355. Appeals Procedures.

A. The Commission on Higher Education shall define the procedures for scholarship appeals.

B. A student who does not meet the continued eligibility criteria for renewal of the Palmetto Fellows Scholarship forfeits continued participation in the Program and may request an appeal based on extenuating circumstances.

C. A student is allowed to submit only one appeal each academic year.

D. A completed appeal's application must be filed with the Commission on Higher Education by the established deadline of the academic year the scholarship is requested. The student must provide a completed application for appeal, a letter requesting an appeal describing the extenuating circumstance, official transcripts from all prior institutions, and any other supporting documentation to substantiate the basis for the appeal. It is the responsibility of the student to ensure that all documents necessary to file an appeal are received at the Commission by the established deadline. Commission staff will not contact the student regarding missing or incomplete appeals documentation. Failure to submit a completed appeal's application by the required deadline(s) will result in forfeiture of the scholarship.

E. A student who fails to submit an appeal by the required deadline will result in forfeiture of the award.

F. The Palmetto Fellows Scholarship shall be suspended during the appeal period, but will be awarded retroactively if the appeal is granted.

G. Students cannot appeal solely on the loss of the Palmetto Fellows Scholarship Enhancement.

H. The Appeals Committee's decision is final.

62-360. Institutional Disbursement of Funds.

A. The institution will identify award amounts, which cannot exceed:

1. \$6,700 the first/freshman year and \$7,500 for the second year, third year, fourth year and fifth year for the Palmetto Fellows Scholarship;

2. \$2,500 for the second year, third year, fourth year and fifth year for the Palmetto Fellows Scholarship Enhancement.

B. Half shall be awarded during the fall term and half during the spring term. Funds cannot be disbursed during the summer or any interim sessions except for disbursements made in accordance with the requirements of the "Enrollment in Internships, Cooperative Work Programs, Travel Study Programs, or National or International Student Exchange Programs" or "Military Mobilization" Sections. Palmetto Fellows may not be funded for more than a total of eight terms of study toward the first bachelor's degree or a program of study that is structured so as not to require a bachelor's degree and leads to a graduate degree or for more than a total of ten terms of study toward the first approved five-year degree. Palmetto Fellows Scholarship Enhancements may not be funded for more than a total of six terms toward the first bachelor's degree or a program of study that is structures so as not to require a bachelor's degree or for no more than a total of eight terms toward the first-approved bachelor's degree.

C. The Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement cannot be applied to remedial coursework, continuing education coursework, a second bachelor's degree or to graduate coursework, unless the graduate coursework is required as part of a program of study that is structured so as not to require a bachelor's degree and leads to a graduate degree as defined in the "Definitions" Section or the student is enrolled in one of the following programs: 1) Master of Science in Physician Assistant Studies at the Medical University of South Carolina; 2) Master of Science in Cytology and Biosciences at the Medical University of South Carolina; 3) Doctor of Pharmacy at the Medical University of South Carolina and the University of South Carolina (S.C. College of Pharmacy); and 4) Doctor of Pharmacy at Presbyterian College. In the event of early graduation, the award is discontinued.

D. Students who change their major from an ineligible degree program to an eligible degree program during the same academic year cannot be awarded the Palmetto Fellows Scholarship Enhancement until the next academic year. Additionally, students who change their major from an eligible degree program to an ineligible degree program during the same academic year will retain their Palmetto Fellows Scholarship Enhancement eligibility for the remainder of the current academic year.

E. The institution shall provide each Palmetto Fellow with an award notification for each academic year, which will contain the terms and conditions of the Scholarship and other financial aid awarded. Students will be notified of adjustments in financial aid due to changes in eligibility and/or over-award issues. The Commission on Higher Education, for documentation purposes, requires that each institution obtain verification of acceptance of the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement and terms for the awards.

F. After the last day to register for each term of the academic year, the institution will verify enrollment of each recipient as a South Carolina resident who is a full-time degree-seeking student.

G. The institution must submit a request for funds and/or return of funds by the established deadline each term. The Commission will disburse funds to eligible independent and public institutions to be placed in each

138 FINAL REGULATIONS

eligible student's account. In addition, a listing of eligible recipients by identification number with the award amounts must be sent to the Commission on Higher Education by the established deadline each term. At this time, any unused funds must be returned to the Commission immediately.

H. The Commission will disburse awards to the eligible four-year independent and public institutions to be placed in each eligible student's account.

I. The student shall be required to provide a nationally recognized unique identifier in order for the institution to award, disburse, and/or transfer the student's state scholarship and/or grant to an eligible institution.

62-365. Refunds and Repayments.

A. In the event a student who has been awarded the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement withdraws, is suspended from the institution, or drops below full-time status during any regular term of the academic year, institutions must reimburse the Program for the amount of the Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement for the term in question pursuant to refund policies of the institution. Collection is the responsibility of the institution.

B. In the event a student withdraws or drops below full-time status after the institution's refund period and therefore must pay tuition and fees for full-time enrollment, the award may be retained by the student pursuant to the refund policies of the institution.

C. In the event a student who has been awarded the Palmetto Fellows Scholarship and the Palmetto Fellows Scholarship Enhancement and has been identified as not being a SC resident at any time, the institution must reimburse funds to CHE for the time period the student was no longer a SC resident.

62-370. Program Administration and Audits.

A. The South Carolina Commission on Higher Education shall be responsible for the oversight of functions (e.g., guidelines, policies, rules, regulations) relative to this Program with the eligible independent and public institutions. The Commission on Higher Education shall be responsible for the allocation of funds, promulgation of guidelines and regulation governing the Program, any audits, or other oversight as may be deemed necessary to monitor the expenditure of funds.

B. According to the Audit Policies and Procedures for Scholarship and Grant Programs Manual, all eligible independent and public institutions must abide by all Program policies, rules and regulations. Institutions also agree to maintain and provide all pertinent information, records, reports or any information as may be required or requested by the Commission on Higher Education or the General Assembly to ensure proper administration of the Program.

C. The Chief Executive Officer at each eligible independent and public institution shall identify to the Commission on Higher Education an institutional representative who is responsible for the operation of the Program on the campus and will serve as the contact person for the Program. The institutional representative will act as the student's fiscal agent to receive and deliver funds for use under the Program.

D. All eligible independent and public institutions that participate in the program must verify the lawful presence in the US of any student who receives a Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement prior to awarding the Scholarship to the student. When verifying the lawful presence of an individual, institutional personnel shall not attempt to independently verify the immigration status of any alien, but shall verify any alien's immigration status with the federal government pursuant to 8 USC Section 1373(c).

E. The participating institution shall identify to the Commission on Higher Education an institutional representative who will be responsible for determining residency and lawful presence classification for the purposes of awarding the Palmetto Fellows Scholarship.

F. Independent and public institutions of higher learning in this, or any other state in the U.S., are prohibited from using the Palmetto Fellows Scholarship in programs that promote financial aid incentives or packages. Any mention of the Palmetto Fellows Scholarship in these financial aid packages must indicate the scholarship to be separate from the University that is offering the financial aid package, and reference the Palmetto Fellows Scholarship as a separate financial aid award, provided to the student by the State of South Carolina.

62-375. Suspension or Termination of Institutional Participation.

A. The Commission on Higher Education may review institutional administrative practices to determine compliance with pertinent statutes, guidelines, rules or regulations. If such a review determines that an institution has failed to comply with Program statutes, guidelines, rules or regulations, the Commission on Higher Education may suspend, terminate, or place certain conditions upon the institution's continued participation in the Program and require reimbursement to the Program for any funds lost or improperly awarded.

B. Upon receipt of evidence that an institution has failed to comply, the Commission on Higher Education shall notify the institution in writing of the nature of such allegations and conduct an audit.

C. If an audit indicates that a violation(s) may have occurred or are occurring at any eligible independent or public institution, the Commission on Higher Education shall secure immediate reimbursement from the institution in the event that any funds were expended out of compliance with the provisions of the Act, any relevant statutes, guidelines, rules, and regulations.

Fiscal Impact Statement:

There will be no increased Administration costs to the state or its political subdivisions.

Statement of Rationale:

This proposed regulation will clarify the policies and procedures for administering the Palmetto Fellows Scholarship Program at the public and independent colleges and universities in the state. The proposed regulation includes the addition of the Pharmacy programs at Presbyterian College to the Palmetto Fellows Scholarship Program. In addition, the proposed regulation also provides the procedures that institutions must follow when determining students' eligibility and when disbursing Palmetto Fellows Scholarship and Palmetto Fellows Scholarship Enhancement funds to eligible students in accordance with the SC Illegal Immigration Reform Act. This regulation is being promulgated to implement this legislative mandate by including the appropriate language in the awarding procedures.

140 FINAL REGULATIONS

Document No. 4159

DEPARTMENT OF PROBATION, PAROLE AND PARDON SERVICES

CHAPTER 130

Statutory Authority: 1976 Code Sections 24-21-10 et seq.

130-30. Board Training

130-40. Reentry Supervision

130-50. Hearing Officer Qualifications and Preliminary Hearing Procedures

130-60. Administrative Sanctions for Violations

Synopsis:

The South Carolina Department of Probation, Parole and Pardon Services (the Department) seeks to promulgate regulations which govern, to the extent authorized by 1976 S. C. Code of Laws, Title 24, Chapter 21 and required by Act 273 of 2010, the minimum number of hours of training required for the members of the Board of Probation, Parole and Pardon Services (the Board) and the specific requirements of the comprehensive training course that newly appointed members must complete; the specific criteria for the annual training the Board members must complete; the terms and conditions of reentry supervision; the qualifications of the Department's hearing officers and the procedures for the preliminary hearings conducted by those hearing officers; and the establishment and listing of administrative sanctions for the most common types of supervision violations.

A Notice of Drafting was published in the *State Register* on October 22, 2010.

Instructions:

Print the regulation in accordance with directions given below to reflect new regulations.

130-30 through 130-60. Print as shown below.

Text:

130-30. Board Training.

The following provisions apply with respect to training requirements for members of the Board of Probation, Parole and Pardon Services.

A. Training for Newly Appointed Members

(1) Within ninety days of a Board member's appointment by the Governor and confirmation by the Senate, the Board member must complete a comprehensive training course of at least sixteen (16) hours encompassing components consistent with those offered by the National Institute of Corrections or the American Probation and Parole Association. This training will include but is not limited to the following topics: (a) the elements of the decision making process through the use of evidence-based practices for determining offender risk, needs and motivations to change, including the actuarial risk/needs assessment tool used by the Department, (b) security classifications as established by the Department of Corrections, (c) programming and disciplinary processes, (d) the Department's supervision, case planning, and violation process, (e) the dynamics of criminal victimization, and (f) collaboration with corrections related stakeholders, both public and private, to increase offender success and public safety.

B. Annual Training

(1) Each Board member is required to complete at least eight (8) hours of training annually encompassing components consistent with those offered by the National Institute of Corrections or the American Probation and Parole Association. This training will include but is not limited to the following topics: (a) a review and analysis of the effectiveness of the risk/needs assessment tool used by the Department, (b) a review of the Department's progress toward public safety goals, (c) the use of data in decision making, and (d) information regarding promising and evidence-based practices related to corrections and crime victim dynamics.

130-40. Reentry Supervision.

A. Reentry Supervision Program

(1) The Department shall operate a supervised reentry program to provide for a period of reentry supervision for eligible inmates beginning one hundred and eighty days before the date they would otherwise have been released. The Department shall establish terms and conditions of supervised reentry. The Department shall provide supervision of inmates placed on supervised reentry and utilize an evidence based assessment to determine the inmate's risk and needs.

B. Terms and Conditions of Supervised Reentry

(1) The terms and conditions of supervised reentry must include, but are not limited to: (a) mandatory reporting as instructed, (b) residence requirements and restrictions, (c) employment requirements and restrictions, (d) allowing agents of the Department to visit in the home, place of employment or elsewhere at any time, (e) restrictions on the use of alcohol and controlled substances, (f) submitting to alcohol and drug testing as instructed, (g) restrictions on movement and access to businesses/locations as instructed, (h) restrictions on the possession of firearms and other weapons, (i) restrictions from associations with other persons with a criminal record, (j) refraining from violation of any federal, state or local laws, (k) notifying agent of any arrest, detainment or questioning by law enforcement officials, (l) paying all financial obligations as instructed, and (m) submitting to the advice and instructions of the agent.

C. Alleged Violations

(1) Alleged violations of the terms or conditions of supervised reentry shall be initiated pursuant to a warrant or citation issued by a probation agent setting forth the violations and shall be presented to the Department's hearing officer for final disposition. If the hearing officer determines the inmate has violated a term or condition of reentry supervision, the hearing officer may impose other terms or conditions and may continue the inmate on reentry supervision, or the hearing officer may revoke the inmate's reentry supervision and return the inmate to the Department of Corrections to serve the remainder of his or her sentence. The decision of the hearing officer regarding reentry supervision shall be final and there shall be no appeal of this decision.

130-50. Hearing Officer Qualifications and Preliminary Hearing Procedures.

A. Hearing Officer Qualifications

(1) The hearing officer will be an employee of the Department with a Master's Degree and five (5) years of probation, parole, law enforcement or related experience; or a Bachelor's Degree and seven (7) years of probation, parole, law enforcement, or related experience.

B. Procedures for Preliminary Hearings

(1) When constitutionally required, the hearing officer will conduct preliminary hearings to determine probable cause on alleged violations committed by individuals under the supervision of the Department and as otherwise required by law. This includes, but is not limited to, violations concerning probation, parole and

142 FINAL REGULATIONS

community supervision. The hearing officer will also conduct preliminary hearings and final revocation hearings for supervised furlough, youthful offender conditional release cases, and such other hearings as required by law. The hearing officer will determine the utilization of administrative sanctions where appropriate; identify problem behaviors and offer remedies whenever possible; and either determine those cases which are to be finally decided within the Department's jurisdiction, or make recommendations on those cases which must be finally decided by the Board of Probation, Parole and Pardon Services, or by the Court. The hearing officer will ensure that individuals charged with violations of their supervision conditions and scheduled for a preliminary hearing are afforded due process of law. This includes: (a) written notice of the claimed violations, (b) written notice that a hearing will take place and that its purpose is to determine whether there is probable cause to believe the individual has committed a violation, (c) the opportunity to appear and speak in his own behalf, and the opportunity to bring letters, documents or individuals who can give relevant information to the hearing officer, (d) the opportunity to confront and cross-examine any adverse witnesses who appear on behalf of the State (unless the hearing officer finds the witness would be subjected to risk of harm), and (e) a written summary or digest of what occurred at the preliminary hearing including the evidence relied upon and the determination of probable cause.

130-60. Administrative Sanctions for Violations.

A. Establishing Administrative Sanctions

(1). The Department shall establish an array of administrative sanctions for use by probation agents and hearing officers to respond to the most common types of violations of the terms and conditions of any supervision program operated by the Department. The array of sanctions shall be on an escalating scale to allow the probation agents and hearing officers to identify and assess the severity of a violation, to evaluate the individual risk posed by the offender, and to select the appropriate sanction response. In determining the appropriate sanctions the Department shall consider, but not be limited to: (a) the severity of the current violations, (b) the offender's previous criminal record, (c) the number and severity of previous supervision violations, (d) the offender's most recent risk/needs assessment, (e) sanctions that were imposed for previous violations, and (f) the availability of community-based programs and treatment options consistent with evidence-based practices.

B. Delineation of Administrative Sanctions

(1) Administrative sanctions established by the Department may be: (a) served by a probation agent by way of a Notice of Administrative Sanction, or (b) imposed by a hearing officer by way of an Order of Administrative Sanction. The administrative sanctions are divided into two types: (a) agent/case management options, and (b) supervision/hearing officer sanctions, and may be used to respond to the most common types of supervision violations including, but not limited to: (a) failure to report, (b) failure to pay fines, fees, and restitution, (c) failure to participate in a required program of service, (d) failure to complete community service, and (e) failure to refrain from the use of alcohol or controlled substances.

(2) Agent/case management options include, but are not limited to, (a) counseling with offender, (b) referring for treatment or other community-based program, (c) reinstating to previously ordered public service employment, (d) restructuring the supervision plan, (e) enhancing drug testing, (f) issuing a verbal reprimand, (g) enhancing supervision contacts, (h) issuing a written reprimand, and (i) placing in inpatient or outpatient treatment.

(3) Supervisor/hearing officer sanctions include, but are not limited to: (a) imposing any agent/case management option, (b) reinstating previously ordered weekend time, (c) modifying supervision level, (d) restructuring financial payments without changing total obligation, (e) implementing financial exemptions, (f) converting supervision fees to public service employment, (g) recommending civil judgment, (h) recommending extension of supervision (if applicable), (i) imposing new/additional public service employment, (j) imposing home detention, (k) imposing participation in electronic surveillance programs, (l)

imposing additional special conditions of supervision, (m) requiring participation in community based programs, (n) recommending partial revocation of sentence (if applicable), and (o) recommending full revocation of sentence.

Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Rationale:

The proposed regulations are being promulgated to comply with provisions of Act 273 of 2010 to establish standards for Board training, reentry supervision, hearing officer qualifications and preliminary hearing procedures, and administrative sanctions for violations.

Document No. 4137
PUBLIC SERVICE COMMISSION
 CHAPTER 103
 Statutory Authority: 1976 Code Section 58-3-140

103-331. Customer Deposits
 103-336. Deposit Retention

Synopsis:

The Public Service Commission of South Carolina (Commission) is amending Regulation 103-331(Customer Deposits) to allow an electrical utility to require a deposit from a non-residential customer when such customer or its parent company is experiencing financial difficulties. Also, Regulation 103-331 is amended to make certain grammatical changes.

Regulation 103-336 (Deposit Retention) is amended to create Sections A and B. Further, this Regulation is amended to state an electrical utility is not required to refund a deposit if a non-residential customer or its parent company is experiencing financial difficulties.

References to “thirty-day arrears” in Regulations 103-331 and 103-336 have not been deleted and are retained in the Regulations contained within this document.

During a hearing conducted before the Commission regarding the partial waiver of Regulations 103-331 and 103-336, a utility employee witness testified that although a non-residential customer may be paying its electric bill on a regular basis, its financial condition with other customers or suppliers may be rapidly deteriorating and bankruptcy may be imminent. For these type customers, no charges for electric service are made until after the electricity already has been used, and the customer continues to use electricity until or after that bill becomes past due. The utility companies therefore expressed, and the Commission approved, a need for the ability to request a deposit from such non-delinquent non-residential customers, or for similar relief, and to retain the deposit longer than the two-year period provided for in Regulation 103-336, if necessary. Also, utility internal credit risk rating criteria to determine a non-residential customer’s credit worthiness and to assess whether a customer should pay a deposit helps the utility avoid losses and subsequent write-offs to uncollectible accounts. In Order No. 2009-770, the Commission found that “providing the State’s utilities with the tools to secure customer accounts when a customer is in financial distress benefits the utilities’ general body of ratepayers.”

The Notice of Drafting regarding these regulations was published on May 28, 2010, in the *State Register*.

144 FINAL REGULATIONS

Instructions: Print the regulations in accordance with directions given to reflect new amended regulations.

103-331. Customer Deposits. Print the regulation as below outlined.

103-336. Deposit Retention. Print the regulation as below outlined.

Text:

103-331. Customer Deposits.

A. Each electrical utility may require from any customer or from any prospective customer, a deposit intended to guarantee payment of bills for service, if any of the following conditions exist:

1. The customer's past payment record to an electrical utility shows delinquent payment practice, i.e., customer has had two consecutive thirty-day arrears, or more than two non-consecutive thirty-day arrears in the past twenty-four months, or

2. A new customer cannot demonstrate that he is a satisfactory credit risk by appropriate means including, but not limited to, a letter of good credit from an electrical utility, references which may be quickly and inexpensively checked by the Company or cannot furnish an acceptable cosigner or guarantor on the same system within the State of South Carolina to guarantee payment up to the amount of the maximum deposit, or

3. A customer has no deposit and presently is delinquent in payments, i.e., has had two consecutive thirty-day arrears, or more than two non-consecutive thirty-day arrears in the past twenty-four months, or

4. A customer has had his service terminated for non-payment or fraudulent use, or

5. A non-residential customer or its parent company is experiencing financial difficulties as determined by an electrical utility using its respective internal credit risk rating criteria (even if the customer has not yet defaulted or caused a default on a payment obligation to the utility) and has not negotiated an alternative payment plan designed to mitigate the utility's risk of loss. The electrical utility may use a variety of security options other than the payment of a two-month cash deposit, including but not limited to accelerated payment plans, surety bonds, bank letters of credit or some combination of the above. All electrical utilities engaging in negotiated payment solutions must provide a copy of their respective internal credit risk rating criteria upon request by the Office of Regulatory Staff.

B. If the electrical utility elects to require a deposit under Subsection (A)(5) of this Rule, then the electrical utility shall inform the affected customer of the provisions of this Rule.

103-336. Deposit Retention.

A. Deposit shall be refunded completely with interest after two years unless the customer has had two consecutive thirty-day arrears, or more than two non-consecutive thirty-day arrears, in the past twenty-four months.

B. An electrical utility shall not be required to refund the deposit if a non-residential customer or its parent company is experiencing financial difficulties as determined by an electrical utility using its respective internal credit risk rating criteria and/or if bankruptcy may be imminent, even though the customer continues to make billed payments in timely manner.

Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Rationale:

The purpose of amending Regulations 103-331 and 103-336 is to allow an electrical utility to require a non-residential customer to post a deposit and to retain such deposit for longer than two years when this customer is experiencing financial difficulty. An electrical utility's loss is mitigated with this amended provision. References to "thirty-day arrears" have been retained in these two regulations. There was no scientific or technical basis relied upon in the development of these regulations.

Document No. 4138

PUBLIC SERVICE COMMISSION**CHAPTER 103**

Statutory Authority: 1976 Code Section 58-3-140

103-607. Regulation Governing Telephone Utilities Offering Regulated Prepaid Local Exchange Services and Bonds or Other Security Mechanisms

Synopsis:

The Public Service Commission of South Carolina (Commission) seeks to amend Regulation 103-607 by applying the provisions of this Regulation to all telephone utilities who provide retail residential local exchange services. With this modification, Regulation 103-607 should be amended to delete any reference to prepaid local exchange services and advance payments. Additionally, Regulation 103-607 will be amended to provide that the Office of Regulatory Staff should receive a copy of any bond or other security mechanism that is filed with the Commission. Therefore, this amended Regulation will apply to all telephone utilities that provide retail residential local exchange services and who individually or together with their affiliates, have not invested at least five million dollars in telecommunications facilities in South Carolina. The Notice of Drafting regarding these regulations was published on May 28, 2010, in the State Register.

Instructions: Print the regulation in accordance with directions given to reflect new amended regulation.

103-607. Print Regulation 103-607 as outlined below.

Text:

103-607. Bonds or Other Security Mechanisms.

This regulation applies to telephone utilities who provide retail residential local exchange services and who individually or together with their affiliates, have not invested at least five million dollars in telecommunications facilities in the State of South Carolina. The commission may waive this requirement upon petition by the telephone utility if the telephone utility provides evidence of financial stability as deemed appropriate by the commission. This regulation does not apply to Commercial Mobile Radio Services.

The commission shall determine the type and the amount of bond or other security mechanism to be filed by the carrier with the commission and the ORS. The commission may order the carrier to file a performance bond or post an irrevocable letter of credit or certificate of deposit. In determining the amount of the performance bond, irrevocable letter of credit, or certificate of deposit, the commission may use, at a minimum, any commercially reasonable, acceptable method, including the following criteria: number of customers, retail price for service, and financial resources of the carrier.

a. Performance Bond. Performance bonds must be issued by an A-grade insurer acceptable to the commission and must be posted with the commission and a copy provided to the ORS. However, the amount of the bond shall be no less than \$100,000. An updated bond shall be filed with the commission and a copy provided to the ORS annually.

146 FINAL REGULATIONS

b. Irrevocable Letter of Credit. An irrevocable letter of credit shall be issued by a financial institution acceptable to the commission. The amount of the irrevocable letter of credit shall be determined by the commission; however, the amount of the letter of credit shall be no less than \$100,000. An updated irrevocable letter of credit shall be filed with the commission and a copy provided to the ORS annually.

c. Certificate of Deposit. The certificate of deposit shall be issued by a financial institution acceptable to the commission and shall be no less than \$50,000. An updated certificate of deposit shall be filed with the commission and a copy provided to the ORS annually.

Forfeiture of Bond or Other Security Mechanism

The commission, after notice and hearing, may order all or part of any bond or other security forfeited upon finding that the telephone utility has abandoned service to customers.

Fiscal Impact Statement:

There will be no increased costs to the State or its political subdivisions.

Statement of Rationale:

The purpose of amending Regulation 103-607 is to broaden the scope of application of this regulation to all utilities that provide retail residential local exchange services and who individually or together with their affiliates, have not invested at least five million dollars in telecommunications facilities in the State of South Carolina. There was no scientific or technical basis relied upon in the development of this regulation.