

Blake R. David
Chair

T. Jay Seale III
Vice Chair

Sonia A. Pérez
Secretary

Kim Hunter Reed, Ph.D.
Commissioner of
Higher Education



Marty J. Chabert
Randy L. Ewing
Robert W. Levy
Phillip R. May, Jr.
Charles R. McDonald
Darren G. Mire
Wilbert D. Pryor
Gary N. Solomon, Jr.
Collis B. Temple III
Felix R. Weill
Chandler C. Vidrine, Student

BOARD OF REGENTS

P. O. Box 3677
Baton Rouge, LA 70821-3677
Phone (225) 342-4253, FAX (225) 342-9318
www.regents.la.gov

AGENDA

Louisiana Tuition Trust Authority
Wednesday, January 6, 2021
9:30 a.m.

Meeting will be held via Video Conference
Meeting can be viewed at: <https://regents.la.gov/live/>

- I. Call to Order
- II. Roll Call
- III. Certification of Virtual Meeting
- IV. Public Comments
- V. Approval of the Minutes
- VI. Consent Agenda
 - A. Approval of Final Rulemaking – Act 56 of 2020 Regular Session
 - B. Approval of Rulemaking – Implementation of ABLE Rulemaking of Final Federal Regulations issued by the Internal Revenue Service
- VII. Adjournment

LATTA Members: Dr. Kim Hunter Reed, Chair, Marty J. Chabert, Blake R. David, Sen. Cleo Fields, Randy L. Ewing, Rachel Kincaid, Robert W. Levy, Phillip R. May, Jr., Charles R. McDonald, Rep. Buddy Mincey, Darren G. Mire, Sonia A. Pérez, Wilbert D. Pryor, T. Jay Seale III, Gary N. Solomon, Jr., Collis B. Temple III, Felix R. Weill, John Williams, Chandler Vidrine, Student

Blake R. David
Chair

T. Jay Seale III
Vice Chair

Sonia A. Pérez
Secretary

Kim Hunter Reed, Ph.D.
Commissioner of
Higher Education



Marty J. Chabert
Randy L. Ewing
Robert W. Levy
Phillip R. May, Jr.
Charles R. McDonald
Darren G. Mire
Wilbert D. Pryor
Gary N. Solomon, Jr.
Collis B. Temple III
Felix R. Weill
Chandler C. Vidrine, Student

BOARD OF REGENTS

P. O. Box 3677
Baton Rouge, LA 70821-3677
Phone (225) 342-4253, FAX (225) 342-9318
www.regents.la.gov

LA-R.S. 42.17.1 CERTIFICATION

I certify that the January 6, 2021 Louisiana Tuition Trust Authority (LATTA) meeting will be held via videoconference in accordance with La. R.S. 42.17.1.

The State of Louisiana continues to operate under a state of public health emergency declared by the governor, as most recently renewed in Proclamations 209 and 210 JBE 2020 (December 22, 2020). As a result, a traditional public meeting would be detrimental to the health, safety and welfare of the public. The LATTA meeting concerns, and is limited to, matters that are directly related to its response to the public health emergency and are critical to the health, safety, and welfare of the public.

Pursuant to La. R.S. 42.17.1, the LATTA will provide for attendance by the public at the meeting of January 6, 2021 via video or teleconference, in a manner that allows for observation and input by members of the public, including a mechanism to receive electronic comment both prior to and during the meeting, as set forth in this notice, posted on December 30, 2020.

Members of the public can view the meeting and make public comment as follows:

The meeting can be viewed at: <https://regents.la.gov/live/>.

Public comments can be made prior to the meeting (until 5:00 pm on Tuesday, January 5, 2021) via email to: bor.publicaffairs@laregents.edu or online at: <https://regents.la.gov/publiccomments>.

Public comments can be made during the meetings via open conference call at: 888-204-5984; access code 1755460#.

A handwritten signature in black ink, appearing to read "Kim Hunter Reed". The signature is written in a cursive style and is positioned above a horizontal line.

Kim Hunter Reed, Ph.D.
Commissioner of Higher Education
Chairman of LATTA



*Student Tuition Assistance and Revenue Trust Program
Louisiana's 529 College Savings Program
A Program of the Board of Regents
602 North Fifth Street
Baton Rouge, LA 70802
(800) 259-5626 (225) 219-1012
www.startsaving.la.gov*

LOSFA

*Sujuan Boutte, Ed.D.
Executive Director*

ADVISORY BOARD

*Barrye Bailey
Dr. Amy Cable
MaryAnn Coleman
Stone Cox
Dr. Leroy Davis
Wendy Grubb
Dr. Jim Henderson
Kristi Lawson
Sharmain Lazard-Talbert
Amy Marix
Brooks Powell*

**Louisiana Tuition
Trust Authority**

*Dr. Kim Hunter-Reed,
Commissioner of Higher
Education, Chair*

*Claudia H. Adley
Marty J. Chabert
Blake R. David
Randy Ewing
Sen. Cleo Fields
Rachel Kincaid
Robert W. Levy
Phillip May, Jr.
Charles R. McDonald
Rep. Buddy Mincey
Darren G. Mire
Sonia Pérez
Wilbert D. Pryor
T. Jay Seale III
Gary N. Solomon, Jr.
Collis B. Temple III
Gerald Theunissen
Felix Weill
John Williams
Chandler Vidrine, Student*

Minutes

**Louisiana Tuition Trust Authority (LATTA)
August 13, 2020**

The Louisiana Tuition Trust Authority (LATTA) met on Thursday, August 13, 2020 at 10:06 a.m. via Zoom Webinar and Conference Call due to social distancing mandate by the Louisiana Governor for the COVID-19 pandemic. The notice of the virtual meeting and certificate of the virtual meeting was placed on the agency's Website that administers the START Saving Program. Commissioner Reed called the meeting to order. Senior Attorney Robyn Lively administered Oaths of Office and the roll was called.

LATTA Members Present

Dr. Kim Hunter-Reed, Chair
Regent Marty Chabert
Regent Blake David
Regent Randy Ewing
Ms. Rachel Kincaid
Regent Robert Levy
Regent Phillip May
Regent Charles McDonald
Rep. Buddy Mincey
Regent Darren Mire
Regent Sonia Pérez
Regent Wilbert Pryor
Regent T. Jay Seale
Regent Gary Solomon
Regent Collis Temple
Regent Felix Weill
Regent Chandler Vidrine

LATTA Members Absent

Regent Claudia Adley
Senator Cleo Fields
Regent Gerald Theunissen
Mr. John Williams

Staff Members Present

Dr. Sujuan Boutté
Rhonda Bridevaux
Robyn Lively
Terri Underwood

Seventeen members were present, which represented a quorum.

The Certification of Virtual Meeting was presented and there was no public comment.

On motion of Regent Weill, seconded by Regent Chabert, the LATTA approved the minutes from the April 24, 2020 meeting.¹

Under the Consent Agenda, it was proposed that the LATTA authorize publication of final rule to amend the START Saving Program administrative rules to add interest rates to be applied to deposits and Earnings Enhancements in eligible START Saving Program accounts for the year ending December 31, 2019 and to amend the administrative rules to implement the applicable provisions of the Setting Every Community Up for Retirement Enhancement (SECURE) Act.

It was proposed that the LATTA approve the rulemaking to amend Section 311 to implement the provisions of Act 56 of the 2020 Regular Session of the Louisiana Legislature and authorize the Executive Director to publish notice of intent to make these rules permanent.

On a motion of Regent Chabert, seconded by Regent McDonald, the LATTA approved the Consent Agenda items.¹

There being no further business, Commissioner Reed called for the meeting to adjourn. On a motion of Regent Chabert and seconded by Regent Temple, the meeting adjourned at 10:17 am.

¹ The approval of minutes and rulemaking were done by roll call voting due to virtual meeting environment.

Agenda Item VI.A.

Consent Agenda: Approval of Final Rulemaking

Authorize publication of final rule to amend the START Saving Program administrative rules to amend Section 311 to implement the provisions of Act 56 of the 2020 Regular Session of the Louisiana Legislature and authorize the Executive Director to publish notice of intent to make these rules permanent.

Background:

At its August 13, 2020, meeting, the Louisiana Tuition Trust Authority authorized publication of a Notice of Intent to effect the below described rule changes. The Notice of Intent was published in the *Louisiana Register* on September 20, 2020.

No comments have been received.

Background:

In 2018, the Legislature enacted Act 687 to implement the START K-12 Program, which allows individuals to open accounts for the purpose of saving for a beneficiary's tuition expenses related to attendance at a school providing kindergarten through twelfth grade education. This Act included a transition provision wherein account owners would be permitted to withdraw funds from a START Saving Program account during the 2018 calendar year only to provide account owners with an opportunity to take advantage of the Tax Cuts and Jobs Act of 2017 while programming was developed for the START K-12 Program.

Act 56 of the 2020 Regular Session of the Louisiana Legislature provides account owners an additional opportunity to withdraw funds from a START Saving Program account to pay the K-12 expenses of a beneficiary. The bill provides that an account owner may withdraw up to \$10,000 from a START Saving Program account during the 2020 calendar year to pay the tuition expenses for a beneficiary's attendance in kindergarten through twelfth grade.

LOSFA Advisory Board Recommendation:

LOSFA Advisory Board recommends that the Louisiana Tuition Trust Authority authorize publication of the final rule.

Agenda Item VI.B.

Consent Agenda: Approval of Rulemaking

Rulemaking to implement final federal regulations issued by the Internal Revenue Service on October 1, 2020.

BACKGROUND:

The Internal Revenue Service (IRS) has issued final regulations to implement the Achieving a Better Life Experience (ABLE) Act. The proposed rulemaking provides a number of amendments to the current administrative rules to implement the final federal regulations.

First, the final federal regulations provide for a hierarchy of those individuals with a connection to the eligible account owner who may serve as administrator of an ABLE account. Current rulemaking provides that an administrator may be the account owner, a parent, or a person appointed by the eligible individual to administer the account. Federal regulations provide for the following hierarchy: a person selected by the eligible individual or by an agent appointed by the eligible individual; a custodian appointed by a court of law or a legal guardian; the spouse of the eligible individual; a parent of the eligible individual; a sibling of the eligible individual; a grandparent of the eligible individual; a representative payee appointed by the Social Security Administration. Advisory Council members had expressed a concern that an eligible individual may not have the legal capacity to appoint an administrator or to administer the account themselves, but they did not want to require the appointment of an administrator by a court through interdiction. Incorporation of the hierarchy set forth in the federal regulations addresses this concern by allowing a representative payee appointed by the Social Security Administration to administer the account on behalf of the eligible individual.

Current rulemaking provides that the person opening the account on behalf of the eligible individual provide documentation that they have the legal right to act on the behalf of the eligible individual. Incorporation of the hierarchy provided for in the federal regulations, along with the requirement that the person within the hierarchy who wishes to open the account certify that there is no one else in a higher position within the hierarchy, will eliminate the requirement that documentation of authority be provided when an account is opened, thereby reducing the burden on the eligible individual or his administrator to provide such documentation.

Federal regulations also provide for the annual certification that the person for whom the account was opened continues to be an eligible individual under the law and that the administrator of the account must notify the ABLE program when the person for whom the account was opened ceases to be an eligible individual under the law. Deposits cannot be accepted after the individual becomes ineligible, and disbursements after the date the person ceases to become ineligible will not be considered a qualified disbursement, even if the expense was incurred prior to the date of an ineligibility determination.

The federal regulations also provide that an ABLE account may remain open after the individual ceases to be an eligible individual. They do not provide a time period within which such inactive account may remain open. Staff recommends that an account may continue to exist until the end of the fifth full year following the determination that the individual for whose benefit the account was opened ceases to be an eligible individual under the law. A five-year period should be sufficient to allow an individual to resolve any issues with an eligibility determination and to be certified as an eligible individual again. If the five-year period expires, and the individual for whose benefit the account was opened still remains ineligible, the account must be terminated or

transferred to an eligible individual who is also a member of the family of the original account owner.

In addition to the above-described rule changes, a number of technical changes have been incorporated into this rulemaking to eliminate references to the START Saving Program that were inadvertently included in the original rulemaking for the LA ABLÉ Account Program.

Louisiana ABLÉ Advisory Council Recommendation:

Louisiana ABLÉ Advisory Council recommends that the Louisiana Tuition Trust Authority authorize the Executive Director of LOSFA to publish notice of intent to make these rules permanent.