



# LSBEP Newsletter

*The Louisiana State Board of Examiners of Psychologists was established under LA R.S. 37:2351 for the purpose of safeguarding the health, safety and welfare of the citizens of Louisiana against the unauthorized, improper and unlicensed practice of psychology.*

## BOARD MEMBERS

Chair: Jesse Lambert, Psy.D., M.P.

Vice Chair: Koren Boggs, Ph.D.

Member: Amy M. Henke, Psy.D.

Member: Leah J. Crouch, Psy.D.

Member: Gregory Gormanous, Ph.D.

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## PERSONNEL

Executive Director  
Jaime T. Monic

Accountant: Valerie Dominique, CPA

General Counsel:  
Lloyd Lunceford  
Amy Groves Lowe

Prosecuting Attorney:  
Courtney P. Newton

Complaints Coordinators:  
Sasha J. Lambert, Ph.D.  
Erin Skaff Vandenberghe, Psy.D., MPAP  
Mark P. Vigen, Ph.D.

Investigators:  
Tony McCoy  
Henry Richardson

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## THE LSBEP NEWSLETTER IS MAKING A COMEBACK

AMY HENKE, PSY.D.

On May 6, 2019, the LSBEP held a Special Meeting. The purpose of the Special Meeting was, in part, to discuss bills filed during the 2019 Regular Legislative Session which will have an impact (positive or negative) on the operations and functioning of the LSBEP and, as a result, licensees. At this meeting, the LSBEP voted to bring back the LSBEP Newsletter as a means to communicate pertinent information to licensees and interested parties. The current legislative edition is intended to inform individuals with an interest in the regulation of psychology about proposed changes that may impact the LSBEP, licensed psychologists, and the general public.

The LSBEP's legislative mandate is to safeguard public protection through, in part, investigations and formal disciplinary actions. In fulfilling its mandate, the LSBEP strives to ensure a fair process and to appropriately conclude all disciplinary action through, depending on the circumstances, dismissal, education, consent order, formal adjudication, summary suspension, or the Impaired Psychologist Procedure. Recently, the LSBEP created an AdHoc Complaints Committee to conduct a comprehensive review of the laws and rules relative to Requests for Investigations, Investigations, formal disciplinary action, and conclusion of formal disciplinary action. The LSBEP, in collaboration and cooperation with the Louisiana Psychological Association (LPA), is diligently working to finalize recommendations for revisions to the complaints process for board review and future rule revision. Members of the AdHoc Complaints Committee, which committee includes both members of the LSBEP and LPA Liaison, Dr. Kim VanGeffen, agree that the recommended changes protect the public while also ensuring transparency, clarity, and due process for psychologists.

It is important to note that due to state laws mandating confidentiality, the LSBEP is not able to discuss specific details of Requests for Investigations received by the LSBEP. However, all final board actions and decisions of reviewing courts following appeal are public record. **To date the LSBEP has never had a board decision overturned following judicial review.** Furthermore, psychologists will be pleased to learn that the LSBEP's administrative processes for complaints have been affirmed by both district and appellate courts following judicial review of the same. Should an individual wish to learn more about the disciplinary process and judicial review of board actions, the board encourages interested parties to attend scheduled hearings and read about public legal proceedings and court decisions most of which are accessible via the internet.

## 2019 REGULAR LEGISLATIVE SESSION



## LSBEP IMPACT STATEMENT

**Disclaimer:** The LSBEP is monitoring the following proposed legislation and the potential impacts on agency functioning, public protection, and licensing. The board and staff may provide information to educate the committees regarding legislative impacts on board function and processes, board regulation, and the practice of psychology as it relates to public protection as these bills are considered during the session. Louisiana law prohibits government agencies, including the LSBEP, from lobbying for any proposed legislation.

This list does not include all proposed legislation with potential impacts upon psychologists or the practice of psychology. The information provided herein should not be a substitute for your own research and information gathering. You may find information on current and proposed legislation on the Louisiana Legislative website: [www.legis.la.gov](http://www.legis.la.gov).

**HB423 EMERSON** - LICENSING: Repeals the ability of a professional board or commission to revoke an occupational or professional license for failure to pay student loans.

- This proposed legislation will eliminate current legislation which prohibits LSBEP from issuing a license to an individual who is in default of a student loan and mandates that the LSBEP revoke the license of a licensee for failure to pay student loans.
- IMPACTS: No negative impacts on this agency's ability to carry out its mission of public protection are anticipated as a result of this legislation.

**HB503 EDMONDS** - LICENSING: Provides relative to licensing qualifications

- This proposed legislation states that no person shall be disqualified from pursuing, practicing, or engaging in any occupation for which a license is required solely or in part because of a prior criminal record, unless the crime for which the person was convicted directly relates to the duties and responsibilities for the licensed occupation, is a crime of violence, or is a sex offense.
- It will require LSBEP to revise existing licensing requirements to explicitly list the specific criminal convictions that may disqualify an applicant from receiving a license.
- It will prohibit LSBEP from using vague or generic terms including, but not limited to, "moral turpitude" and "good character" or consider any arrest without a subsequent conviction.
- It will change processes, procedures, and the burden of proof for denial of licensure.
- With the exception of crimes of violence and sex offenses, disqualification shall not last longer than 5 years since last conviction or release from prison, whichever occurs later.
- Individual with criminal history may apply to the board at any time to learn whether the criminal history will disqualify him from obtaining a license. The board has 30 days to review and inform applicant of standing. Max \$25.00 application fee.

- IMPACTS: It is anticipated that this proposed legislation will negatively impact this agency's ability to carry out its mission of public protection and that board implementation of the processes and procedures mandated by the bill will require additional staff and result in increased expenditure of board funds. The LSBEP will monitor and educate relative to perceived impacts.

[HB388 MIGUEZ](#) - PUBLIC RECORDS: Prohibits disclosure of certain personal information in public records

- This proposed legislation codifies current practice, adds a notice requirement, and is not determined to have an impact on LSBEP.
- IMPACTS: No negative impacts on this agency's ability to carry out its mission of public protection are anticipated as a result of this legislation.

[HB515 GAROFALO](#) - LIABILITY: Provides relative to suits against the state and state officials and employees

- This proposed legislation provides that if the attorney general concludes that the covered individual was not engaged in criminal conduct, then the attorney general shall provide a defense to the covered individual.
- IMPACTS: No negative impacts on this agency's ability to carry out its mission of public protection are anticipated as a result of this legislation.

[HB554 GAROFALO](#) - PUBLIC RECORDS: Provides relative to public records

- The proposed legislation will eliminate the ability of the custodian of records from making any inquiry to the requestor thereby preventing questions from the custodian of records intended to narrow the scope of a public records request to relevant records.
- The proposed legislation prohibits the custodian from reviewing, examining, or scrutinizing any copy, photograph, or memoranda accessed by the requestor.
- Mandates that the individual mandating the public records request determines the format of production of documents.
- Puts a cap on the civil penalty for non-compliance and directs the penalty of the custodian to be *in solido* with the LSBEP.

IMPACTS: It is anticipated that this proposed legislation will negatively impact this agency's ability to carry out its mission of public protection as it may result in unnecessary and additional fees to individuals requesting public records requests, inefficient use of employees' time, and the need of additional computer equipment and software to allow immediate access to electronic records. In addition, there is concern that provisions of this proposed legislation may impede the ability of the LSBEP to ensure that information exempt from the public records act, confidential information, is redacted prior to review and production.

- The LSBEP will continue to monitor and educate relative to perceived impacts

[SB29 CORTEZ](#) - FEES/LICENSES/PERMITS: Provides relative to professional and occupational licensing boards and commissions.

- This proposed legislation will prohibit LSBEP from entering into a consent decree with a licensee, permittee, or certificate holder if such decree contains a nondisparagement clause. Prohibits the

initiation of any disciplinary action against a licensee, permittee, or certificate holder for providing testimony or records to a legislative body.

- IMPACTS: The LSBEP neither utilizes nondisparagement clauses in board orders nor disciplines licensees for exercising rights under the First Amendment. Therefore, no impact on the LSBEP's ability to carry out its mission of public protection is anticipated.

[SB66 RISER](#) - PUBLIC MEETINGS: Provides relative to open meetings of public bodies.

- Awards attorney fees and costs to a party bringing suit if successful.
- If a court determines that a suit was frivolously brought, the court may award attorney fees and costs to the board.
- Should a board member knowingly and willfully participates in meeting conducted in violation has civil penalty of \$500 - increased from \$100 - per violation.
- IMPACTS: No negative impacts on this agency's ability to carry out its mission of public protection are anticipated as a result of this legislation.

[SB97 W.BISHOP](#) - CRIMINAL RECORDS: Provides for "clean slate" limited access to a person's criminal history record relative to certain misdemeanors.

- Enacts additional sections to the Public Records Law specifically exempting information contained on Criminal History Records from disclosure.
- Provides that a board may review an applicant's convictions, but may not rely solely on a conviction to preclude the issuance of a license or certification.
- Prohibits the board from denying licensure based on (1) records of arrest if there is no conviction based on the arrest; (2) convictions that have been expunged; (3) convictions for which the person has received a pardon from the governor; and (4) convictions that do not relate to the applicant's suitability for the license, certificate, registration, or permit.
- Allows the board to deny licensure based solely on (1) the applicant or licensee's conviction of a felony; or (2) the applicant or licensee's conviction of a misdemeanor that relates to the trade, occupation, or profession for which the license, certificate, registration, or permit is sought or has been granted.
- IMPACTS: It is anticipated that this proposed legislation will negatively impact this agency's ability to carry out its mission of public protection. The LSBEP will continue to monitor and educate relative to perceived impacts.

[SB98 PRICE](#)- CRIMINAL RECORDS: Provides relative to expungement.

- This proposed legislation, in part, lessens the amount of time after which a convicted felon can apply to have his record expunged; 5 years after completion of sentence if no other convictions.
- IMPACTS: It is anticipated that this proposed legislation will negatively impact this agency's ability to carry out its mission of public protection. LSBEP will continue to monitor and educate relative to perceived impacts.

[B159 DONAHUE](#) - LEGISLATIVE AUDITOR: Provides for review and reports on cost recovery budget request forms completed by certain budget units.

- This proposed legislation deletes references to performance audits.
- Provides that the legislative auditor shall review the cost recovery budget request forms completed for each budget unit in the executive branch of state government as provided in present law and make recommendations related to increasing or decreasing agency fees.
- Provides that the legislative auditor is to report his findings to the Joint Legislative Budget Committee.
- IMPACTS: No negative impacts on this agency's ability to carry out its mission of public protection are anticipated as a result of this legislation.

**SB187 MILKOVICH** - STATE AGENCIES: Provides relative to the conduct of adjudication hearings involving and the re-creation of certain state boards and commissions which issue licenses, permits, or certificates.

- In part, this legislation will:
- Grant a licensee the right to have a formal adjudication moved to the division of administrative law to be decided by an administrative law judge.
- Change current notice requirements and mandates that notice must contain a "detailed description of the complaint sufficient that the licensee has a clear understanding of the accusations being made against him and by whom."
- Dictate a very specific process for investigations that includes, in part, an investigation in which an investigator, a term not defined in the bill, is unable to communicate with the executive director or members of the regulatory board and controls fully the initial investigation without oversight; the executive director, not the board or board member, has all power and authority to review the investigation and proceed with formal disciplinary action; no communication between the executive director and investigator during the investigative process unless the licensee is present; the utilization of a hearing officer or other independent adjudicator without economic bias; and a board investigative file that the licensee may review at any time.
- IMPACTS: It is anticipated that this proposed legislation will negatively impact this agency's ability to carry out its mission of public protection.
- Testimony was provided directly related to the LSBEP in the committee hearings on this legislation. These hearings may be viewed at:

[May 2, 2019, Starting at 4:22:00 Senate Commerce, Consumer Protection, and International Affairs Committee](#)  
and

[May 8, 2019, Starting at 0:00:42 Senate Commerce, Consumer Protection, and International Affairs Committee](#)



ABOVE: Attorney Amy Groves Lowe testifies before the Senate Commerce, Consumer Protection, and International Affairs Committee on May 8, 2019 to provide information relative to the impacts of Senate Bill 187 - Milkovich on the LSBEP

### **CONDOLENCES**

*To the family, friends, and colleagues of Dr. Janet Matthews, the Louisiana State Board of Examiners of Psychologists wishes to express its sincere condolences for your loss. Her contribution to this board and the psychological community will be greatly missed.*

## ELECTION NEWS

○ **2019 REGULAR ELECTION RESULTS [2019-2024 BOARD MEMBER SEAT]:**

VOTER SUMMARY: TOTAL PARTICIPATING 255 OF 791 ELECTORS. 12 Abstained.

Michelle B. Moore, Psy.D.	111	Gina L. Beverly, Ph.D.	73
Laurane Rasmussen, Psy.D.	35	Lisa L. Tropez-Arceneaux, Psy.D.	24

- **UNEXPECTED VACANCY:** A 2019 Election to fill an unexpected vacancy is currently open until May 17, 2019. Please cast your vote today. Contact Jaime Monic at [admin.lsbep@la.gov](mailto:admin.lsbep@la.gov) if you have not received an email notice with a link to vote in this election.

○ **LSSP COMMITTEE MEMBER [2019 Call for Nominations]:**

The LSSP Committee will be vetting a new member for recommendation to the LSBEP at their next Committee meeting on June 4, 2019. If you meet the qualifications below and have an interest in serving a three-year term, on this advisory committee which meets at least quarterly, please submit your resume and cover letter to my attention at the board's address on this letterhead. Include in your cover letter your interest in serving on this committee and an attestation describing how you meet the following requirements: 1. Have maintained residency in Louisiana for not less than two years; and 2. Have a current and unrestricted license to practice in the state of Louisiana under the authority of LSBEP as either a **licensed school psychologist** for not less than two years. All self-nominations must be received by **May 31, 2019**.

- **PUBLIC MEMBER OF THE LSBEP: Act 515 of the 2018 Legislative Session created a position on the board for a Consumer Member.** Under LA R.S. 37:2353.A.(3)(b)(i) The consumer member shall be selected from the state at large and shall possess all of the following qualifications:

- (aa) Is a citizen of the United States and has been a resident of Louisiana for at least one year immediately prior to appointment.
- (bb) Has attained the age of majority.
- (cc) Has never been licensed by any of the licensing boards identified in R.S. 36:259(A), nor shall he have a spouse who has ever been licensed by a board identified in R.S. 36:259(A).
- (dd) Has never been convicted of a felony.
- (ee) Does not have and has never had a material financial interest in the healthcare profession.
- (ii) The consumer member shall be a full voting member of the board with all rights and privileges conferred on board members, except that the consumer member shall not participate in the grading of individual examinations.

To apply for this position, eligible individuals may contact the Governor's Office directly by visiting this link: <http://gov.louisiana.gov/index.cfm/form/home/14>

## HOW LSBEP APPLIES LAWS, RULES AND PROCEDURES IN ADJUDICATING COMPLAINTS

Courtney P. Newton, LSBEP Attorney

The regulatory board system was created and implemented by the Louisiana State Legislature as a means to ensure public protection through governmental oversight of licensed professionals by licensed professionals who possess the same level of knowledge and expertise. This system works, in part, because regulatory board members are experts in their chosen field and are able to competently investigate and adjudicate matters pertaining to their chosen profession. **The Louisiana Administrative Procedure Act (La. R.S. 49:950 et seq.) ("LAPA")**, as complemented by regulatory board laws and rules, and as interpreted by case law, govern all investigations and formal disciplinary action involving regulatory boards and licensees. Regulatory boards are bound by these laws and any deviation from these laws is either a violation of due process, the right to notice and a fair hearing guaranteed in both the Louisiana and U.S. Constitutions; a violation of antitrust laws, a violation of governmental ethics, and/or the regulatory board acting outside the scope of authority dictated by the Louisiana State Legislature. For each unlawful act performed by a regulatory board, there exists an appropriate legal remedy through the Louisiana Courts which may be utilized by the injured licensee to remedy the board's violation of law or rule. The regulatory board system, when carried out in accordance with governing laws and rules, permits regulatory boards to fulfill their mandate to protect the public while simultaneously protecting the rights of the licensee.

Currently, the LSBEP utilizes a committee system for complaint review and investigations that is set forth in board rule and policy which permits board involvement while preserving an unknowing and unbiased hearing panel made up of board members. Upon receipt of a Request for Investigation (RFI) by the board executive director, a committee is formed. The committee typically consists of one board member, bringing professional expertise; the executive director, providing expertise with regard to board administrative function and finance; a board attorney, contributing legal expertise; a complaint coordinator, a psychologist not on the board providing expertise and independent opinion; and, an investigator to conduct interviews and gather evidence. Together, this committee reviews the RFI and decides whether the RFI should proceed to formal notice and investigation or whether the RFI should be dismissed and no further action taken. In the event that an RFI results in an investigation, the licensee under investigation is provided notice of the subject matter of the investigation in accordance with law and the committee reviews all information gathered during the investigation, discusses issues as a group, and makes decisions based on the opinion of the majority. The number of committee members and varying areas of expertise of each of the committee members provides a safeguard against action that is outside the authority or purpose of the board. Only committee members possess knowledge of the complaint and investigation.

During the investigation, the committee may request that the licensee participate in an informal meeting to discuss the RFI and investigation. The licensee may participate alone, with counsel, or decline the board's request. The informal meeting is an attempt to resolve the complaint without the need for formal disciplinary action. At this stage in the process, the complaint may be resolved through dismissal, education, consent order, or participation in an impaired psychologist procedure. Should the complaint not be resolved informally, the committee may decide to proceed to formal disciplinary action. However, prior to the initiation of formal disciplinary action, the **LAPA (La. R.S. 49:961.C.)** mandates that the licensee be permitted the

opportunity to informally show why the allegations are false and formal disciplinary action is not warranted. To ensure notice of all allegations, a “Draft Administrative Complaint” is served on the licensee. If the licensee is unable to show that formal disciplinary action is not warranted or refuses to participate, a Formal Administrative Complaint, signed by board counsel before a notary attesting that the allegations and violations therein are based on information learned during the course and scope of the investigation, is served on the licensee and filed with the board to be docketed for hearing.

Upon the filing of the Formal Administrative Complaint and Notice of Hearing, a hearing officer is assigned. The hearing officer may be an assistant attorney general or attorney contracted by the board to provide such services. The hearing officer receives all motions, presides over hearings, and makes all procedural decisions. The licensee, who may or may not be represented by counsel, may request the deposition of any party, request documents, or submit interrogatories so the licensee may prepare for hearing – the discovery process. The same is true for the prosecuting attorney for the board. Even after the initiation of formal disciplinary action, the board members that will serve on the hearing panel still have no knowledge of the complaint or investigation. The only knowledge that they possess prior to the hearing is the date of the hearing and the name of the licensee so that a board member may be recused in the event of bias and a pro tem hearing panel member appointed by the Governor.

Should the matter go to formal hearing, the process is a trial on a small scale involving the hearing panel acting as jury, hearing officer acting as judge, prosecuting attorney, respondent licensee, defense attorney if desired, court reporter, and witnesses. It is important to note that existing law prohibits the investigating or prosecuting attorney to also serve as the hearing officer thereby ensuring separation of prosecutorial and adjudicatory functions. Both parties are able to introduce evidence and call witnesses. If, following the presentation of evidence, the hearing panel determines that the prosecuting attorney proved beyond a preponderance the allegations of fact and violations of law detailed in the Formal Administrative Complaint thereby establishing the licensee’s “guilt”, the hearing panel issues an order outlining the findings of fact and conclusions of law and dictating sanctions as appropriate which may include license restriction (ie: practice only under supervision), probation, suspension, revocation, participation in the impaired psychologist procedure, etc. The licensee has the right to appeal the board’s decision to the district court which process further ensures due process and state oversight of the board’s actions.

Since the Supreme Court’s 2015 decision in *N.C. State Board of Dental Examiners v. Federal Trade Commission* (a case related to action against unlicensed individuals) LSBEP has seen legislation that has sought to change this process, which process has been reviewed by the district and appellate courts and determined to be constitutionally viable – providing all lawfully mandated due process rights to the licensee. Some of the legislation proposed during the recent legislative sessions is in direct conflict with the Louisiana Administrative Procedure Act, will negate all existing administrative case law, will result in loss of board oversight, will significantly disrupt current board processes, and potentially require cases against licensees to be investigated, heard, and decided by individuals without the same level of knowledge and expertise that board members bring to the table. Should legislation pass that mandates that board hearings be heard and decided by an administrative law judge, the loss of professional expertise and knowledge will result in the need for additional expert witnesses to teach administrative law judges about appropriate clinical practice and increase the cost of the adjudication. These changes will result in increased costs paid by the licensees through increased fees as the LSBEP is a 100% self-funded board. LSBEP will continue to educate on matters that have an impact on this agency’s ability to fulfill its mission to protect the public.

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*Leah J. Crouch, Psy.D.  
Board Member  
Term: 7/21/2017 – 5/10/2019*

## Farewell Dr. Leah Crouch

The board and its employees wish to say farewell to Leah J. Crouch, Psy.D. We are all so grateful for the time and dedication she has put into serving on the board. Dr. Crouch has been a dedicated board member since her appointment on July 21, 2017. In her short time with us, she has added valuable input to board discussions, has been instrumental in improving policy and regulation, and has been particularly active and committed to the Supervision and Credentials Review Committee and Continuing Professional Development Committee. We wish her lots of success in her next steps. She will be greatly missed.



### UPCOMING DATES OF INTEREST

- LSBEP Ethics Presentation at LPA annual meeting @ 2 PM on Saturday, June 15, 2019 at the Sheraton Galleria in Metairie
- Last day to obtain CPD for license renewals ending in odd numbers – June 30, 2019
- License renewal period OPENS – July 1, 2019

**Would you like to receive future newsletters directly to your email?** Email: [jaimemonic@la.gov](mailto:jaimemonic@la.gov) and request to be added to the email distribution list for the LSBEP Newsletter. You may also receive meeting notices and agendas via email by subscribing to our PUBLIC NOTICE distribution list.

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**NOTICE:** In compliance with Act 655 of the 2018 Regular Session, the LSBEP hereby gives notice to its licensees and applicants of their opportunity to file a complaint about board actions and board procedures. You may submit such complaints to one or more of the following organizations:

- Louisiana State Board of Examiners of Psychologists: **Submit in writing to:** LSBEP, 4334 S. Sherwood Forest, Blvd., #C-150, Baton Rouge, LA 70816; [admin.lsbep@la.gov](mailto:admin.lsbep@la.gov); (225)295-8410
- Committee on House & Governmental Affairs, La. House of Representatives: **Submit to:** [H&GA@legis.la.gov](mailto:H&GA@legis.la.gov) or Committee on House & Governmental Affairs, La. House of Representatives, PO Box 44486, Baton Rouge, LA 70804; (225) 342-2403
- Committee on Senate & Governmental Affairs; La Senate: **Submit to:** [s&g@legis.la.gov](mailto:s&g@legis.la.gov) or Committee on Senate & Governmental Affairs; La Senate PO Box 94183, Baton Rouge, LA 70804; (225)342-9845