

Presumptions and Judicial Notice

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Judicial Notice

Do I really need to call a witness to prove that the sun rises in the east and sets in the west? Do I really have to bring an engineer to prove that . . .

Do I really need to bring a doctor to prove that. . .

One of the most-underutilized areas of evidence is the use of judicial notice to prove elements of your case.

What is judicial notice?

Judicial notice involves a situation where a fact is either so well known or so readily verifiable that formal proof of the fact is unnecessary. The Louisiana Code of Evidence and the Federal rules of Evidence provide the rules setting forth when the court is allowed to use such notice., allowing the court to take such notice, eliminating any need to prove such facts and to instruct the jury on how to consider the judicially noticed facts.

The Statutes

La. Code of Evidence Art. 201.

Judicial notice of adjudicative facts generally

A. Scope of Article. This Article governs only judicial notice of adjudicative facts. An "adjudicative fact" is a fact normally determined by the trier of fact.

B. Kinds of facts. A judicially noticed fact must be one not subject to reasonable dispute in that it is either:

(1) Generally known within the territorial jurisdiction of the trial court; or

(2) Capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

C. When discretionary. A court may take judicial notice, whether requested or not.

D. When mandatory. A court shall take judicial notice upon request if supplied with the information necessary for the court to determine that there is no reasonable dispute as to the fact.

E. Opportunity to be heard. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior opportunity to be heard, the request may be made after judicial notice has been taken.

F. Time of taking notice. A party may request judicial notice at any stage of the proceeding but shall not do so in the hearing of a jury. Before taking judicial notice of a matter in its Instructions to the jury, the court shall inform the parties before closing arguments begin.

G. Instructing jury. In a civil case, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

La. Code of Evidence Art. Art. 202. Judicial notice of legal matters

A. Mandatory. A court, whether requested to do so or not, shall take judicial notice of the laws of the United States, of every state, territory, and other jurisdiction of the United States, and of the ordinances enacted by any political subdivision within the court's territorial jurisdiction whenever certified copies

of the ordinances have been filed with the clerk of that court.

B. Other legal matters. (1) A court shall take judicial notice of the following if a party requests it and provides the court with the information needed by it to comply with the request, and may take judicial notice without request of a party of:

(a) Proclamations of the President of the United States and the governor of this state.

(b) Rules of boards, commissions, and agencies of this state that have been duly published and promulgated in the Louisiana Register.

(c) Ordinances enacted by any political subdivision of the State of Louisiana.

(d) Rules which govern the practice and procedure in a court of the United States or of any state, territory, or other jurisdiction of the United States, and which have been published in a form which makes them readily accessible.

(e) Rules and decisions of boards, commissions, and agencies of the United States or of any state, territory, or other jurisdiction of the United States which have been duly published and promulgated and which have the effect of law within their respective jurisdictions.

(f) Law of foreign countries, international law, and maritime law.

(2) A party who requests that judicial notice be taken and the court, if notice is taken without request shall give reasonable notice during trial to all other parties.

C. Information by court. The court may inform itself of any of the foregoing legal matters in such manner as it may deem proper, and the court may call upon counsel to aid it in obtaining such information.

D. Time of taking notice. Judicial notice of the foregoing legal matters may be taken at any stage of the proceeding, provided that before taking judicial notice of a matter in its instructions to the jury, the court shall inform the parties before closing arguments begin.

E. Question for court. The determination of the foregoing legal matters shall be made by the court.

**Federal Rules of Evidence Rule 201.
Judicial Notice of Adjudicative Facts**

(a) **Scope of rule.** This rule governs only judicial notice of adjudicative facts.

(b) **Kinds of facts.** A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose

- (c) **When discretionary.** A court may take judicial notice, whether requested or not.
- (d) **When mandatory.** A court shall take judicial notice if requested by a party and supplied with the necessary information.
- (e) **Opportunity to be heard.** A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.
- (f) **Time of taking notice.** Judicial notice may be taken at any stage of the proceeding.
- (g) **Instructing jury.** In a civil action or proceeding, the court shall instruct the jury to accept as conclusive any fact judicially noticed. In a criminal case, the court shall instruct the jury that it may, but is not required to, accept as conclusive any fact judicially noticed.

Judicial notice is the evidentiary mechanism by which the judge is asked to rule that certain facts are true. Its purpose is to promote trial efficiency, sharpen issues and permit the introduction of indisputable evidence where formal proof may be expensive and time-consuming.

As stated by Wright & Graham:

Judicial notice means use by a court of extra-record facts at any stage of any proceeding in which, apart from judicial notice, a finding of adjudicative facts is required to be based on evidence in the record. However, the definition that best captures the restrictive spirit of Rule 201 is Judge Jefferson's:

Judicial notice of a matter means the recognition and acceptance by the court, for use by the trier of fact or by the court, of the existence of a matter of law or fact (a) without the necessity of formal proof of that matter, and (b) if the matter is the kind that is either required or authorized to be judicially noticed by statutory or decisional law.

Scope of the law

Federal

FRE 201 is limited in scope and governs only "adjudicative facts," Those facts that are in issue in the case. Judicial notice of law is covered by either Rule 44.1 of the Federal Rules of Civil Procedure or Rule 26.1 of the Federal Rules of Criminal Procedure.

The court can take judicial notice of a fact if it is "not subject to reasonable dispute" and falls within one of two categories. First, the fact is "generally known within the territorial jurisdiction of the trial court." For example, in Baton Rouge it is generally known that Tiger Stadium is in East Baton Rouge Parish, and a court in Baton Rouge can take judicial notice of that fact.

Second, the fact is "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." These are sometimes referred to as "almanac

facts.” For example, an almanac can be consulted to determine the time of a sunrise, a map can be consulted to determine the distance between two cities or an encyclopedia may be consulted to determine reliable information that is not subject to reasonable dispute. Courts often take judicial notice of prevailing interest rates, actuarial tables, weights and measures, calendar dates and locations of highways.

Courts also regularly take judicial notice of the reliability of certain scientific principles underlying accepted scientific tests. Courts recognize that radar machines can accurately measure speed (without proving what radar is and how it works), blood tests can determine alcohol level and that everyone has different fingerprints.

State

In Louisiana, judicial notice is similarly defined as a method by which courts dispense with formal proof when there is not real necessity for it because the matters to be noticed are indisputable as a matter of common knowledge or as being easily capable of immediate verification. *S.J. Lemoine, Inc. v. St. Landry Parish School Bd.*(1988, La. App 3d Cir) 527 So.2d 1150

Courts may take judicial notice only of those facts that may be regarded as forming part of the common knowledge of every person of ordinary understanding and intelligence, and those that are not subject to reasonable dispute. *Walker v. Haliburton Servs.* (1995, La App 3d Cir) 654 So.2d 365, cert den (La) 660 So.2d 481; *Welcker v. Welcker*, (1977, La App 4th Cir) 342 So.2d 251, cert den (La) 343 So.2d 1077

In Woodard, et al. Louisiana Trial Procedure §10:4, by Vincent P. Fornias, a listing of examples is as follows:

- A wife keeping her ex-husband’s surname [Welcker v. Welcker

(1977, La App 4th Cir) 342 So.2d 251, cert den (La) 343 So.2d 1077];

- Obvious legal negligence in a malpractice case [Schlesinger v. Herzog (1996, La App 4th Cir) 672 So.2d 701, cert den (La) 679 So.2d 1381];
- The intoxicating nature of beer [State v. Bob (1929) 1692 La 289, 126 So 126]; and
- Geographic facts such as the locations of streets. [State v. Scramuzza (1982, La) 408 so.2d 1316; La Code Evid Ann art 201(B)(1)]; or
- A recognizable location within a certain parish for venue purposes [State v. Gatch (1996, La App 2d Cir) 669 So.2d 676, cert den (La) 679 So.2d 429; La Code Evid Ann art 201(B)(1)]

Among facts not deemed by courts as generally known are the exact alcoholic content of beer, [State v. Brown (1974, La) 301 So.2d 605]; or the causal relationship between asbestosis and lung cancer. [Wallace v. Kaiser Aluminum & Chemical Corp. (1991, La) 586 so.2d 149]

Courts have taken judicial notice of the time of sunrise of sunset or the phase of the moon on a particular day; [Josey v. Granite State Fire Ins. Co. (1960, La. App. 2d Cir.) 122 So.2d 303] or of testimony from a prior proceeding which was part of the same case heard by the court., [State v. Valentine (1981, La) 397 So.2d 1299]

A court cannot accept a matter as judicially noticed simply because the court has personal knowledge of its existence. [Marianne v. State Farm Mut. Auto. Ins. Co. (1951, La. App, Orleans) 54 So.2d 538] Thus, a court's knowledge of an accident site and insights gained from a personal visit to the site are not appropriate for judicial notice. [Elliott v. United States Fidelity & Guaranty Co. (1990, La App 2d Cir) 568 so.2d 155; Parish of East Baton Rouge v. Thomas (1977, La App 1st Cir 346 So.2d 364]

Woodard, et al. Louisiana Trial Procedure, by Vincent P. Fornias
Procedure

Federal

A party wishing the court to take judicial notice must ask the court to take judicial notice and must supply the court with the necessary information, and the opposing party must have an

opportunity to state its objections.

The court may also take judicial notice on its own motion without the request of a party.

One excellent example of how the procedure works appears in Trial Evidence by Thomas Mauet and Warren Wolfson. In a personal injury case, before trial the plaintiff moves that the court take judicial notice of certain facts. At the hearing the following occurs:

State

In practice, a party should formally request acceptance of a fact as judicially noticed, either by written pleading or by oral motion in open court. The request and the court's disposition should be preserved in the trial court record. [Clark v. South Cent. Bell Tel. Co.

(1976, WD La) 419 F Supp 697, 18 BNA FEP Cas 630] Such a request may be made at any time of a proceeding. [Premier Bank v. Daigle (1992, La App 3d Cir) 599 So.2d 503; La Code Evid Ann art 201(F)]

Any request for judicial notice must be made out of the hearing of the jury. [La Code Evid Ann art 201(F)]

A party desiring to contest the propriety of accepting a fact as judicially noticed is entitled to request, in a timely manner, a hearing thereon. [La Code Evid Ann art 201(E)]

Effect of Judicial Notice

Federal

Under FRE 201(g), in civil cases, the jury must accept as conclusive any fact judicially noticed. In criminal cases, the jury may, but is not required to accept as conclusive any fact judicially noticed.

The noticed fact is then conveyed to the jury in the form of an instruction, viz: “You must accept as conclusively true the fact that . . .”

State

Under Louisiana law if a court is taking judicial notice of a matter, it must so advise the parties before closing arguments begin. [La Code Evid Ann art 201(F)] In civil matters, a court must specifically instruct the jury to accept as conclusive any fact that has been judicially noticed. By contrast, the court in a criminal matter must instruct the jury that acceptance of a judicially noticed fact is within their discretion [La Code Evid Ann art 201(G)]

Judicial Notice of Legal Matters

Louisiana also recognizes judicial notice of legal matters in La. Code of Evidence Article 202.

As explained by Vincent P. Fornias in § 10:14 through 10:35 of Woodard et al. Louisiana Trial Procedure as follows:

An excellent sample foundation for judicial notice is contained in Evidentiary Foundations as follows:

Federal Rules of Civil Procedure Rule 44. Proof of Official Record

(a) Authentication.

(1) Domestic. An official record kept within the United States, or any state, district, or commonwealth, or within a territory subject to the administrative or judicial jurisdiction of the United States, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by the officer's deputy, and accompanied by a certificate that such officer has the custody. The certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district or political subdivision in which the record is kept, authenticated by the seal of the officer's office.

(2) Foreign. A foreign official record, or an entry therein, when admissible for any purpose, may be evidenced by an official publication thereof; or a copy thereof, attested by a person authorized to make the attestation, and accompanied by a final certification as to the genuineness of the signature and official position (i) of the attesting person, or (ii) of any foreign official whose certificate of genuineness of signature and official position relates to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation. A final certification may be made by a secretary of embassy or legation, consul general, vice consul, or consular agent of the United States, or a diplomatic or consular official of the foreign country assigned or accredited to the United States. If reasonable opportunity has been given to all parties to investigate the authenticity and accuracy of the documents, the court may, for good cause shown, (i) admit an attested copy without final certification or (ii) permit the foreign official record to be evidenced by an attested summary with or without a final certification. The final certification is unnecessary if the record and the attestation are certified as provided in a treaty or convention to which the United States and the foreign country in which the official record is located are parties.

(b) Lack of Record. A written statement that after diligent search no record or entry of a specified tenor is found to exist in the records designated by the statement, authenticated as provided in subdivision (a)(1) of this rule in the case of a domestic record, or complying with the requirements of subdivision (a)(2) of this rule for a summary in the case of a foreign record, is admissible as evidence that the records contain no such record or entry.

(c) Other Proof. This rule does not prevent the proof of official records or of entry or lack of entry therein by any other method authorized by law.

Examples of instances of judicial notice as referenced in Wright & Graham follow:

- C that “reds” means second
- C that Newport Beach is a resort area in which owners and rightful occupants or residents are often absent for substantial parts of the year
- C the fact of inflation is not open to reasonable dispute
- C New York has no firearms manufacturing within its borders
- C It was common knowledge in 1950s that silicon dust was harmful to the lungs
- C Southwestern Bell Telephone Co. transmits interstate phone communications
- C Prevailing interest rates
- C Bread is sold in supermarkets and is displayed near meat and cheese in delicatessens
- C traditional features of snowmen
- C public knows of radiation danger from nuclear explosions
- C United Airlines is a common carrier in interstate commerce
- C there are plenty of psychiatrists in Tucson
- C Ability of test for drugs in person dissipates with passage of time
- C intoxicating effect of alcohol diminishes with passage of time
- C validity and accuracy of radar devices but not of particular reading
- C swimming pools are dangerous to young children
- C 14 month old rape victim was not the wife of accused
- C gasoline will kill grass
- C many people are named “Brown”
- C Courts could take judicial notice of census data showing demographics of area which supported argument that there were many young black men living in the area
- C Judicial findings of fact are not a source of reasonably indisputable accuracy
- C Prevailing rate of interest is a proper subject for judicial notice in calculation of damages
- C The history and belief of the Mennonites is the type of fact which is subject to verification by reference to authoritative sources and is subject to judicial notice by appellate court
- C To determine date of incorporation of company, appellate court would take judicial notice of records of District of Columbia Recorder of Deeds
- C Published budget of municipality could qualify as source of information whose accuracy cannot reasonably be questioned
- C Court properly took judicial notice of a publication in the Federal Register relating to hospital charges for medical care furnished by the United States in determining the reasonableness of defendant’s medical bills.
- C Government maps; distance across street is 60 feet
- C state bar records; defense counsel not authorized to practice law
- C Best’s Insurance Reports are source of reasonably indisputable accuracy with respect to insurance industry
- C In assessing impact of prejudicial publicity on a motion for change of venue, court could take judicial notice of census figures
- C A court could not use a death certificate as a basis for judicial notice that cause of death was suicide

- C In determining proper venue for deposition, court could take judicial notice that the distance from Sparks, Nevada to Sacramento California was more than 75 miles
- C By analogy to many cases holding that court can take judicial notice of stopping distance chart, court could properly notice chart showing the blood alcohol concentration produced by specified number of drinks in persons of particular weight
- C It is possible that cases in which courts report to dictionaries in taking judicial notice, such as those cited in §5106 n. 29, are not cases in which the dictionary is viewed as a source of indisputable accuracy for an ascertainable fact but rather as some evidence of common knowledge; i.e., that where the issue is the meaning of a word, the dictionary both informs and reflects the common understanding of the word. Under the analysis it would be proper to use the dictionary to determine the meaning of a word but not other facts that are sometimes found in the dictionary.
- C In ruling on motion for summary judgment on a claim of copyright infringement for a snowman, court could take judicial notice of the traditional features of a snowman

Suggested Reading Materials

Trial Evidence, Chapter 1: Judicial Notice and Procedure

Louisiana Civil Trial Procedure, Chapter 10: Other Types of Evidence by Vincent P. Fornias

Evidentiary Foundations, Edward J. Imwinkelried

Federal Practice & Procedure, Wright & Graham

Louisiana Cases

Evidence received by judicial notice may be used in connection with an Exception of No Cause of Action. In *Gautreaux v. Rheem Manufacturing Co.*, 96-2193 (La. App. 4th Cir. 12/127/96) 694 So.2d 977 the dispute was over whether asbestosis is better categorized as a “mineral” or a “compound” for the purposes of Louisiana Revised Statutes 23:1031.1 the court had to determine whether asbestosis is an “oxygen compound” within the context of subsection (D) of that statute. The court held:

It is true that asbestosis is a compound which contains oxygen. However, all compounds that contain oxygen may not necessarily be oxygen compounds for the purposes of former subsection (D).

The court declined to evaluate or take judicial notice of a scientific conclusion (that asbestosis is an oxygen compound) without the benefit of expert testimony. In his dissent, Judge Burns outlined an excellent analysis of the concept of judicial notice as follows:

The present case raises the interesting question of whether an exception of no cause of action may be granted where determination of a material issue of fact is required but that fact is one of which the court may take judicial notice. Judicial notice is an evidentiary device but it is an exceptional evidentiary device in that it essentially dispenses with the necessity of proof. Taking judicial notice in connection with an exception of no cause of action is analogous to the previously described exceptions to the rule against the admission of evidence on a par with evidence admitted without objection because, as set forth below it is "not subject to reasonable dispute" and "cannot reasonably be questioned." La. C.E. Art. 201 B.

Article 201 B of the Louisiana Code of Evidence provides for judicial notice of two categories of facts "not subject to reasonable dispute," i.e., those facts that are either:

- (1) Generally known within the territorial jurisdiction of the trial court; or
- (2) Capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

If it is "not subject to reasonable dispute" as contended by Rheem that asbestos is an oxygen compound, then no purpose is served in requiring Rheem to prove that fact.

The nature of the chemical composition of asbestos falls under the second category of judicially noticeable facts as it requires a "resort to sources." It is not "generally known." Because it requires reference to "sources" outside the realm of general knowledge, its utility in connection with an exception of no cause of action is not as intuitively and apparently obvious as facts that are generally known.

However La.Code of Evidence Article 201 D makes it clear that facts requiring "resort to sources" under Article 201 B(2) are to be treated as just as compelling and convincing as those referred to in Article 201 B(1) as "generally known" because it makes judicial notice of such facts mandatory:

D. When mandatory. A court shall take judicial notice upon request if supplied with the information necessary for the court to determine that there is no reasonable dispute as to the fact.

La.Code of Evidence Article 201 D must refer back primarily to Article 201 B(2) because there should normally be no necessity for supplying the court "with the information necessary" as described in > Article 201 D concerning facts "generally known" as described in Article 201 B(1). The fact that Article 201 D makes the taking of judicial notice mandatory in connection with Article 201 B(2) "resort to sources" type facts, further supports the argument that judicial notice of this type is an appropriate exception to the prohibition against the receipt of evidence in connection with a no cause of action exception.

Because judicial notice dispenses with formal proof or evidence where facts are either common knowledge or capable of immediate verification (Acadia-Vermilion Rice Irr. Co., Inc. v. Broussard, 185 So.2d 908 (La.App. 3 Cir.1966)), it does not really violate the prohibition against the receipt of evidence in connection with an exception of no cause of action.

Once relator has requested the court to take judicial notice and has supplied the court with the necessary information in accordance with the language of La.Code of Evidence Article 201 D, it is mandatory that the court take judicial notice, even in connection with an exception of no cause of action. The fact that the La.Code of Evidence makes it mandatory demonstrates the overwhelming force of public policy against the needless waste of judicial resources that would occur were litigants required to go through the pointless exercise of proving that which is not subject to reasonable dispute.

A fact judicially noticed is considered as true without the offer of evidence. Broussard, supra. Therefore, the "sources" referred to in Article 201 B(2) should not be equated with the term "evidence" as used in La. C.C.P. art. 931 which prohibits the introduction of "evidence" in connection with the exception of no cause of action. It is significant that Article 201 employs neither the term "evidence" nor "proof". This further removes judicial notice of "adjudicative facts" from the ambit of "evidence" as prohibited by La. C.C.P. art. 961. We also note that Comment "(d)" under Article 201 contains language indicating that the concept of judicial notice transcends the normal rules of evidence:

This Article should be read in pari materia with Article 104 of this Code, which specifically provides that certain preliminary factual questions "shall be determined by the court" without its being "bound by the rules of evidence."

That judicial notice may be appropriate in situations where the reception of evidence normally may not be, is further supported by the fact that appellate courts which normally may not receive evidence, may exercise judicial notice.

29 Am.Jur.2d Sec. 34 at p. 90 provides in part:

In contrast with judicial notice of matters of common knowledge, notice of ascertainable facts is a comparatively new development in the law.

Numerous cases can be found in which courts judicially notice ... scientific ... facts ...

* * * * *

Matters not of common knowledge may be judicially noticed if they may be readily determined by an examination of a source whose accuracy cannot be reasonably questioned, such as ... scientific facts which are generally accepted as irrefutable by living scientists.

29 Am.Jur.2d provides in part:

Sec. 26. Use of encyclopedias, textbooks, and dictionaries

Since judicial notice is not limited by the actual knowledge of the individual judge, judges may refresh their memories upon matters properly subject to judicial notice from encyclopedias, textbooks, dictionaries, or other publications of established authenticity.... The mere appearance of facts within such publications does not, however, in most jurisdictions, entitle them to judicial notice unless they are such as to be a part of common knowledge. In some jurisdictions, dictionaries, encyclopedias and similar general reference works may be consulted to determine whether a particular fact is widely enough known to fall within this category of common knowledge. The rule regarding taking judicial notice of facts appearing in texts is different in jurisdictions which adhere to the rule that judicial notice may be taken of facts not of general common knowledge, provided they can be verified to a certainty by reference to competent authoritative sources. [Emphasis added.]

Although the fact that asbestos is an oxygen compound is not a fact generally known, neither is it an arcane scientific fact known only to expert chemists and nobel laureates. It is a fact easily grasped by anyone with a junior high general science course, and certainly by anyone taking a high school chemistry course. It is easily and readily verifiable. Asbestos is defined in the Second College Edition of the American Heritage Dictionary (a reference book for the general public) as magnesium silicate, and a silicate is defined as "any of numerous compounds containing ... oxygen"

...

(b) The definition of asbestos from the Glossary of Geology, American Geological Institute, Washington, DC, p. 41 (1975) is:

a commercial term applied to a group of highly fibrous silicate > (FN6) minerals that readily separate into long, thin, strong fibers of sufficient flexibility to be woven, are heat resistant and chemical inert, and possess a high electric insulation, and therefore are suitable for uses where incombustible, nonconducting, or chemically resistant material is required.

The only reason given by the trial court for denying Rheem's exception was that it "relied" on Thomas, supra. But as explained previously, that reliance was misplaced. The trial court did not state that it was unable to verify the presence of oxygen in the compound asbestos. The majority agrees that asbestos is a compound which contains oxygen. Accordingly, this court can take judicial notice of the fact that asbestos is an oxygen compound.

Based on the conclusion that judicial notice can be taken of the fact that asbestos is an oxygen compound, the further question at issue is whether it is one of the substances contemplated by the 1952 version of > La. R.S. 23:1031.1 (A) 1 (d), which is a matter of law fully within the competence of this court to determine on an exception of no cause of action.

In *Authement v. Authement*, 96-1289 (La. App. 1st Cir. 5/9/97) 694 So.2d 1129 the court took judicial notice that "Genesis" the school that is part of the Terrebone Parish school system is a part of the public school system for children who are having particular problems, whether it be disciplinary or otherwise and that they have a modified curriculum, that some of the students go to vo-tech and some of them receive a high school diploma if they finish the requirements.

In *Malbrew v. Port Barre Mills, Inc.*, 96-790 (La. App. 3rd Cir. 4/23/97) 693 So.2d 259 the court took judicial notice of the Diagnostic and Statistical Manual of Mental Disorders (DSM-IV) and admitted the criteria for a certain mental disorder.

In *State v. Holloway*, 28901 (La. App. 2nd Cir. 12/11/96) 684 So.2d 1068 the court took judicial notice of the fact that with regard to notices sent by the court the sheriff's office mails the original white copy to the defendant, the yellow copy to the surety, the pink copy is attached to the bond which is a part of the record and the green copy is an extra which is not normally used.

In *Commercial College of Shreveport v. Williams*, 28546 (La. App. 2nd Cir. 8/21/96) 679 So.2d 509 the court took judicial notice of federal regulations concerning a promissory note. The court took judicial notice that the Higher Education Act of 1965 provides the guidelines for eligibility to receive funds under the loan program and that a student must be enrolled in a degree, certificate or program, approved for credit, at an institution of higher education that is an eligible

institution according to the provisions of the Act.

In *State v. Miskel*, 95-584 (La. App. 5th Cir. 1/30/96) 668 So.2d 1299 the court took judicial notice of the fact that a particular area was notorious as a drug trafficking location.