

Current Policy

Title 28 EDUCATION

Part I. BESE/8(g) Operations

Subpart 1. Board of Elementary and Secondary Education

Chapter 5. Organization

§503. Advisory Councils

A. Functions. In general, the function of an advisory council is to advise the board, directly or through its committees, in the discharge of its policymaking, supervisory control, and budgetary duties and responsibilities. Specific functions of an advisory council are determined by the creating law or policy. Advisory councils deal exclusively with matters referred to them by the board or the LDE. Matters referred to advisory councils are those that require external input regarding funding decisions, policy matters that need to be reviewed for local impact, bulletin revisions containing policies or supervisory controls, and matters particular to a council for which it was created. The LDE staff provides the board with a statewide and nationwide perspective on certain issues, while advisory councils respond from a local or community perspective.

B. Composition. Unless otherwise provided by state or federal law, each advisory council of the board is created by board policy. The policy determines the size of the council membership; the number of persons to be appointed by the board; the persons, organizations, affiliations, or interest groups to be represented on a council; and the length of terms. Unless required by law, no member of the board is a member of an advisory council.

C. Creation. The following advisory councils are created.

1. 8(g) Advisory Council:

a. authority—per BESE policy;

b. membership—16 members as follows:

i. eleven members, one member recommended by each BESE member from the member's assigned category, as follows:

(a). one representative of a business partner in education;

(b). one LEA grant administrator;

(c). one elementary principal;

(d). one secondary principal;

(e). one representative of a nonpublic school system;

(f). one representative of a public charter school;

(g). one LEA supervisor;

(h). one teacher, grades preK-6;

(i). one teacher, grades 7-12;

(j). one LEA superintendent; and

(k). one 8(g) evaluator;

ii. Louisiana PTA president; and

iii. two ex officio members from the legislature, recommended by the senate president, from the following categories:

(a). chair or member of the Senate Committee on Education; and

(b). chair or member of the Senate Committee on Finance;

iv. two ex officio members from the legislature, recommended by the speaker of the House, from the following categories:

(a). chair or member of the House Committee on Education; and

(b). chair or member of the House Committee on Appropriations;

c. referrals/responsibilities:

c. referrals/responsibilities:

- i. advise the board relative to standards and guidelines affecting nonpublic schools;
- ii. consider all matters referred by the board or the LDE.

3. Superintendents' advisory council:

a. authority—per BESE policy;

b. membership—24 members as follows:

i. two city, parish, or other local public school superintendents recommended by each board member. It is recommended that the composition reflect all sizes of systems and be equitable in the regions represented, to the extent possible;

ii. the superintendent of the recovery school district (RSD), who is appointed by the state superintendent of education;

iii. the president of the Louisiana Association of School Superintendents (LASS), who shall serve as chair of the council;

c. expenses. Members shall not receive reimbursement for travel expenses from the board.

d. Referrals/responsibilities:

i. consider all matters referred by the board or the LDE;

ii. recommendations from the superintendents' advisory council shall be reported to the appropriate board committee. The LDE shall provide responses to the recommendations.

D. Special Advisory Councils/Task Forces/
Commissions/Study Groups. Special advisory groups may be created by the board with a limited charge and scope to study a specific topic as referred by the board. Such groups shall adhere to all advisory council officers, membership, and meetings policies, as described herein.

E Officers. Unless otherwise provided by state or federal law or board policy, each advisory council shall select from among its membership in attendance a chair and a vice-chair. Elections shall be held annually at the first meeting in a fiscal year, and the councils shall report election results to the board.

F. Membership

1. Terms. Unless otherwise provided by state or federal law, persons appointed by board members shall serve two-year staggered appointments at the pleasure of their recommending authority. Persons appointed by organizations and agencies other than BESE shall serve terms determined by the appointing authority. All appointments shall be made in July of the appropriate year, as determined by BESE staff. A council member may be removed without cause by the board member recommending the appointment, by the board member's successor, or by the recommending agency at any time. Appointees must maintain employment/qualifications appropriate to the organizational category being represented. Once a member retires, becomes employed in a different capacity, or otherwise fails to maintain eligibility, the member shall become ineligible to continue to serve and shall be replaced.

2. Vacancies. A vacancy in an appointed position shall occur if an appointee, for any reason, is unable to serve the full extent of his/her term. Appointments to fill vacancies shall be considered interim appointments.

3. Expenses. Members of advisory councils may be entitled to reimbursement for travel expenses, if specified by statute or not prohibited by board policy, pending availability of funds. Requests for reimbursement for expenses shall be submitted in accordance with the regulations promulgated by the commissioner of administration in the *Louisiana Travel Guide*.

4. Quorum. Unless otherwise provided, a quorum is a majority of the appointed membership. In the absence of a quorum, the advisory council may take unofficial action, but minutes submitted to the board shall indicate that the recommendations are being presented without the required quorum being present. When it is known beforehand that a quorum is unlikely, the council chair shall be so notified and the meeting shall be canceled.

5. Proxy. Any person serving on an advisory council who cannot attend a scheduled meeting may designate a person to attend as that member's proxy if the appointing authority does not object. Proxies shall retain voting privileges. To receive reimbursement for travel and other expenses, a proxy must be properly designated by the active member and recorded in the minutes as being present. If the proxy is representing an advisory council member who is prohibited by board policy from receiving reimbursement for travel expenses, the proxy is likewise prohibited from receiving reimbursement.

6. Attendance Policy

a. Appointed members are expected to attend all scheduled meetings of an advisory body. Unless otherwise provided, if a member is unable to attend a meeting, a request for an excused absence should be submitted to the council

G.. Meetings

1. Each advisory council shall meet as scheduled in order to consider referrals from the board or the LDE. Special meetings shall be by call of the board, and emergency meetings may be called at the discretion of the executive director.

2. Regular meeting dates shall be scheduled one year in advance and shall be determined by the executive director or the executive director's designee.

3. Notices of council meetings shall be distributed to council members by the board staff at least 10 days in advance of a meeting, calendar permitting. All council meetings shall be conducted in accordance with the Louisiana Open Meetings Law (R.S. 42:11). In the event that no items have been referred by the Board to an advisory council for consideration, there are no items pending on an advisory council agenda, and the LDE has no items to bring forward to the advisory council at least 10 days prior to a scheduled meeting, the meeting shall be cancelled and the members shall be notified of the cancellation.

4. In accordance with Act 131 of the 2008 Regular Legislative Session, the agenda may be amended upon unanimous approval of the members present at a meeting and subject to other provisions of the Act.

5. In all particulars, except for those listed in these rules and procedures, the business in advisory councils shall be conducted according to *Robert's Rules of Order*.

6. Every motion passed by an advisory council, whether or not made as a recommendation, shall be made as a main motion and must be seconded. All motions must be voted on and roll call votes may be requested by any of the membership in attendance at a meeting.

a. Requests from advisory councils for data/reports must be made in the form of a motion, requesting that the board direct the LDE or BESE staff to provide such information to the council making the request.

7. The minutes and reports of each advisory council shall be presented to the board's executive director for referral to the board. Actions taken in response to referrals shall be forwarded to the appropriate committee(s). A committee, after consideration of the recommendations of the advisory council, shall report its recommendations to the board for final action.

8. All meetings of advisory councils shall be considered official functions of the board to assist in the execution of board responsibilities and duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(A)(15), R.S. 17:24.4, and R.S. 17:11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008), amended LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2140 (July 2011), LR 38:772 (March 2012), LR 38:3152 (December 2012), LR 39:3263 (December 2013), LR 42:563 (April 2016).

Chapter 11. Finance and Property

§1107. Minimum Foundation Program

A. MFP: General Provisions

1. Board Adoption

a. The state superintendent of education shall prepare and recommend to the board for adoption a minimum foundation formula for the equitable allocation of funds to local school systems for the operation of their educational programs. In preparing this recommendation, the state superintendent shall comply with all appropriate state laws and regulations regarding elementary and secondary education.

b. The board shall adopt a minimum foundation formula for the equitable allocation of funds to local school systems. Once adopted, the board shall transmit the formula to the Joint Legislative Committee on the Budget and all other appropriate entities and offices of the executive and legislative branches of government.

2. Local Responsibility

a. It shall be the responsibility of city, parish, or other local school systems; recovery school district schools; and LSU and Southern Lab schools to submit to the LDE in a timely manner all necessary and required information for the computation of an individual allocation from the minimum foundation formula. This information shall be submitted to the LDE in the form required by the LDE. It shall also be the responsibility of all city, parish, or other local school systems, recovery school district schools, and LSU and Southern Lab schools to follow all circulars issued by the LDE providing instructions for the preparation of the required data and other instructions regarding the computation of an allotment from the formula.

B. MFP Payments

1. City, parish, or other local school systems; recovery school district schools; and LSU and Southern Lab schools shall receive an allocation from the annual Minimum Foundation Program in 12 payments. These payments shall be incorporated into monthly amounts received from the state for implementation of the Minimum Foundation Program.

C. MFP—Student Membership Definition

- v. race;
- vi. district and school code;
- vii. entry date; and
- viii. grade placement.

b. For establishing the base student membership count for state funding, the following guidelines will be adhered to:

i. no student will be counted more than one time. Students attending more than one school will be counted in membership only one time;

ii. all students, including special education students who meet the following criteria will be included in the base student membership count:

(a). have registered or pre-registered on or before student count dates designated in the current adopted MFP resolution (If student count date(s) falls on a Saturday, report membership on the previous Friday. If student count date(s) falls on a Sunday, report membership on the following Monday.);

(b). are actively attending school (All current state laws and BESE policies concerning attendance should be carefully followed. Appropriate documentation [either written or computer documents] such as dates of absences, letters to parents, notification to child welfare and attendance officers should be placed in individual permanent records for any students who may have absences which raise questions about the student's active attendance.);

(c). and/or have not officially exited from school (Students are considered to have officially exited if a notification of transfer has been provided by the student's parent/legal guardian or received from another school.);

iii. students who are in BESE-approved alternative programs (schools) in city, parish, or other local school systems; approved charter schools; recovery school district schools; LSU and Southern Lab schools; or Office of Juvenile Justice schools will be included in the base student membership count.

iv. students who reside in Louisiana, attend school in another state, and are supported by Louisiana funding will be included in the base student membership count.

v. all special education preschool (ages 3-5) students will be included in the base student membership count.

vi. All special education infant (ages birth-2) students for whom one or more of the sixteen identified services are provided, shall be included in the base student membership count.

vii. Regular pre-kindergarten (four-year-old program) students will not be included in the base student membership count.

viii. Private school students receiving special education services through any public school system or school will NOT be included in the base student membership count.

ix. Students will be included in the base student membership count until the chronological age of 21 years. A student whose twenty-second birthday occurs during the course of the regular school year, will be counted in the base student membership count for that school year.

x. Students receiving educational services at any elementary and secondary school operated by the Office of Juvenile Justice (OJJ) in a secure care facility, considered to be a public elementary or secondary school, will be included in the base membership count of OJJ. The base membership count for OJJ is identified as average daily membership and is calculated by dividing the number of days the students are under the guidance and direction of teachers by the total instructional days during the specified school year.

D. MFP—Add-on Students/Units

1. Required Data. For purposes of establishing the data sets used in determining the add-on students/units, the following will be adhered to.

a. At-risk student count shall be determined by the following:

i. for those schools or school systems participating in the National School Lunch Program (NSLP) using meal benefits applications for free and reduced price meals, the number of students whose family income is at or below income eligibility guidelines or other guidelines as provided by BESE. The current income eligibility guidelines include those students qualifying to participate in the federal free and reduced price breakfast and lunch program. The fall count is determined by the number of students qualifying for the free and reduced price lunch program during the month of October as reported in the Student Information System (SIS). For any additional required count date(s), the at-risk student count will be those qualifying for free and reduced price lunch as reported in SIS, as of that count date; and

ii. for those schools or school systems participating in an alternate USDA food service program such as provision 2 or community eligibility option (CEO), the percentage rate for free and reduced price lunch will be frozen at the latest available free and reduced price lunch percentage prior to participation in the program and shall be multiplied by the base membership count to determine add-on low income students

ii. both public and nonpublic special education students ages 3-21 identified as having a disability, as defined by R.S. 17:1943, who have a current individual education plan (IEP) and are currently receiving services from any local public school system or school. (Students serviced by SSD #1 and certain correctional facilities are excluded.)

e. Special Education—gifted and talented student count shall be determined by the number of special education students in the SER database as of the student count date(s), which includes both public and nonpublic special education students ages 3-21, identified as gifted and talented, as defined by R.S. 17:1943, who have a current IEP and are currently receiving services from any local public school system or school.

f. Economy of scale student count shall be determined by the number of students in the base student membership count as defined in LAC 28:I.1107.C.1.

AUTHORITY NOTE: Promulgated in accordance with Art. VIII §13 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008), amended LR 37:1142 (April 2011), LR 37:3219 (November 2011), LR 38:1404 (June, 2012), LR 38:3155 (December 2012), LR 39:3266 (December 2013).

Chapter 13. Regulatory Documents

§1303. Rulemaking

A. *Rule*—each agency statement, guide, or requirement for conduct or action, exclusive of those regulating only the internal management of the agency and those purporting to adopt, increase, or decrease any fees imposed on the affairs, actions, or persons regulated by the agency, which has general applicability and the effect of implementing or interpreting substantive law or policy, or which prescribes the procedure or practice requirements of the agency. *Rule* includes, but is not limited to, any provision for fines, prices or penalties, the attainment or loss of preferential status, and the criteria or qualifications for licensure or certification by an agency. A *rule* may be of general applicability even though it may not apply to the entire state, provided its form is general and it is capable of being applied to every member of an identifiable class. The term includes the amendment or repeal of an existing rule but does not include declaratory rulings or orders or any fees.

B. All rules adopted by the board must be adopted in accordance with the Louisiana Administrative Procedure Act (APA).

C. The following process must be followed for adoption of a new policy, the amendment of an existing policy, or the repeal of an existing policy.

1. The board approves a proposed Rule to be advertised as a Notice of Intent. The Notice of Intent approval will serve as authorization for the BESE executive director to submit the Notice of Intent to the *Louisiana Register* for final adoption as a Rule at the expiration of the required 90-day advertisement period, if no public comments are received relevant to said Notice of Intent. If comments are received regarding the Notice of Intent, the comments will be considered by the board prior to final adoption as a Rule (refer to 2.e-2.f.ii below).

2. Following Approval of a Proposed Rule to be Advertised as a Notice of Intent

a. The appropriate LDE/BESE staff is requested to submit proposed policy language, a Family Impact Statement, a Poverty Statement, a Small Business Statement, a Public Comments paragraph, a Fiscal and Economic Impact Statement (FEIS), and comparison language (if applicable) to the board recorder for processing.

b. These documents are submitted to the Legislative Fiscal Office (LFO) for approval.

c. After the Fiscal and Economic Impact Statement is approved by the LFO, the board recorder prepares the Notice of Intent in compliance with statutory specifications and submits it to the *Louisiana Register* for publication. A report regarding the Rule is also submitted to the appropriate legislative committees.

d. Upon publication of the Notice of Intent in the *Louisiana Register*, a period of 90 days must elapse before the Notice of Intent can be adopted as a Rule.

e. Any public comments received during the comment period are forwarded to the LDE/board office, to the appropriate BESE committee, and to the appropriate legislative committees for consideration.

f. In the event that substantive changes are made to the Notice of Intent as a result of the public comments received, the board can choose to:

i. approve for final adoption only those Sections that will not be changed as a result of the public comments and re-advertise as Notice of Intent only those Sections requiring substantive change; or

ii. not approve the Notice of Intent for final adoption, and begin the entire process anew.

3. The deadline for submission of information for publication of Notices of Intent or Rules in the *Louisiana Register* is the tenth of the month.

D. Due to the board meeting schedule, the Fiscal and Economic Impact Statement approval process, and the *Louisiana Register* deadlines, the entire process takes a minimum of five months to complete.

F. *Louisiana Administrative Code* Title 28 Part Numbers XI ad infinitum have been reserved for board and LDE