

**Current Policy
Title 28**

EDUCATION

Part I. BESE/8(g) Operations

Chapter 3. Composition and General Authority

§307. General Powers and Duties

A. The board exercises its supervision and control over the public elementary and secondary schools and special schools under its jurisdiction, and exercises its budgetary responsibility for all funds appropriated or allocated by the state for public elementary, secondary, and special schools placed under its jurisdiction, through general powers and duties that shall include, but not be limited to, the following:

1. adopt a minimum foundation program and adopt a formula for the equitable allocation of minimum foundation funds to city, parish, or other local public school systems. The board shall adopt such program and formula for each ensuing fiscal year in a timely manner so that the program and formula may be submitted to the Joint Legislative Committee on the Budget in accordance with R.S. 17:22(2)(d);

2. exercise budgetary responsibility and allocate for expenditure by the schools and programs under its jurisdiction all monies appropriated or otherwise made available for purposes of the board and of such schools and programs;

3. supervise, manage, and operate or provide for the supervision, management, and operation of a public elementary or secondary school which has been determined to be failing, including the power to receive, control, and expend state funds appropriated and allocated pursuant to La. Const. Art. VIII, Sec. 13(B), any local contribution required by La. Const. Art. VIII, Sec. 13, and any other local revenue available to a school board with responsibility for a school determined to be failing in amounts that are calculated based on the number of students in attendance in such a school, all in the manner provided by and in accordance with law;

4. approve the administration of the special school district and the recovery school district by the LDE;

5. approve budgets of the LDE, including the special school district and recovery school district, and all entities under the jurisdiction of the board as provided herein;

6. prescribe and adopt free school books and other materials of instruction for the children of this state at the elementary and secondary levels and all other schools and programs under its jurisdiction for which the legislature provides funds, in accordance with law;

7. adopt or approve courses of study and rules, by-laws, and regulations for the discipline of students and for the governance of the public elementary and secondary schools and other public schools and programs under its jurisdiction, which shall not be inconsistent with law and which shall be enforced by the city, parish, or other local public school boards and the city, parish, or other local public school superintendents;

8. prescribe the qualifications and provide for the certification of teachers in accordance with applicable law, which qualifications and requirements shall be such as to insure that certification shall be a reliable indicator of the minimum current ability and proficiency of the teacher to educate at the grade level and in the subject(s) to which the teacher is assigned;

9. adopt minimum standards for the approval of each public elementary and secondary school and special school in the state under its jurisdiction;

10. except as otherwise provided by law, approve private schools in accordance with the provisions of R.S. 17:10 and other applicable laws;

11. exercise supervision and control over the state's special schools: the Louisiana School for the Visually Impaired, the Louisiana School for the Deaf, and the Louisiana Special Education Center;

12. exercise approval authority over the administration of the special school district by the LDE pursuant to law;

13. issue diplomas for successful completion of programs of study;

14. exercise approval authority over the administration of the recovery school district by the LDE pursuant to law;

15. authorize the operation of type 2, type 4, and type 5 charter schools and provide oversight through the LDE of type 2, type 4, and type 5 charter schools;

a. review each proposed charter in a timely manner and determine whether each proposed charter complies with the law and rules and whether the proposal is valid, complete, financially well-structured, educationally sound, and whether it offers potential for fulfilling the purposes of the charter school law;

b. enter into any proposed charter that complies with the charter school law and policy upon a determination that the charter is a valid, complete, financially well-structured, and educationally sound proposal that offers potential for fulfilling the purposes of the charter school law;

c. determine the policy and provide direction to the LDE for providing the oversight of the operation of charter schools chartered with the board;

16. adopt, amend, or repeal rules, regulations, and policies necessary or proper for the conduct of the business of the board.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VIII §8, R.S. 17:6(A), R.S.17:7(2)(a), R.S. 17:7(3), R.S. 17:7(4), R.S. 17:7(5), R.S. 17:7(6)(a)(i), R.S. 17:7(7), R.S. 17:7(8), R.S. 17:4.1, R.S. 17:43, R.S. 17:348, R.S. 17:6(A)(10), R.S. 17:6(A)(11), R.S. 17:10.5, R.S. 17:1990 and R.S. 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008), amended LR 38:3150 (December 2012), LR 39:3262 (December 2013).

§309. State Superintendent

A. Appointment

1. The state superintendent shall be appointed by a two-thirds vote of the total membership of the board, subject to confirmation by the senate.

2. The board shall enter into a contract with the state superintendent that delineates the terms and conditions of employment. The length of the contract shall be determined by the board, but may not extend past the end of the term of office of the board members making the appointment, except that the contract may provide that the state superintendent may serve until the succeeding board has made an appointment.

3. Any vacancy in the office of the state superintendent which occurs prior to the expiration of the term of his/her contract shall be filled for the remainder of the unexpired term by the method of appointment provided herein.

4. The board shall delegate to the state superintendent such of its powers and duties as it deems appropriate to aid the state superintendent in the efficient administration of his/her responsibility for the implementation of the policies of the board.

B. Qualifications. The state superintendent shall possess the following qualifications.

1. General:

- a. advanced degree in public administration, education, or related area;
- b. background in the formulation and implementation of public policy;
- c. strong academic background; and
- d. qualifications as are adopted by rule by the board for the position of superintendent of a city, parish, or other local public school board, except that any such qualification may be waived by a favorable vote of at least two-thirds of the authorized board membership.

2. Experience:

- a. proven record of success in administration;
- b. demonstrated ability to achieve positive results;
- c. credibility in his/her current profession; and
- d. proven record of team building.

3. Professional skills:

- a. proven decision-making skills;
- b. proven leadership skills;
- c. ability to work effectively with the legislature and executive branches of the government, education, business, and civic organizations; and
- d. outstanding interpersonal and communication skills.

C. Compensation. The annual salary of the state superintendent shall be set by the board subject to the approval of the Joint Legislative Committee on the Budget.

D. General Authority

1. The state superintendent shall execute and implement those educational policies and programs which are under the supervision and control of the board and shall serve as the administrative head of the LDE.

2. The state superintendent shall have such other powers, functions, duties, and responsibilities as may be provided by law, regulation, and policy.

3. The state superintendent shall administer the recovery school district, an intermediate education unit within the LDE, pursuant to R.S. 17:1990. As the administrative head of the LDE, the state superintendent is the appointing authority for the recovery school district, except as provided herein.

4. The state superintendent shall be the governing authority for the special school district, an educational service agency within the LDE, pursuant to R.S. 17:1945. As the administrative head of the LDE, the state superintendent is the appointing authority for the special school district, except as provided herein.

5. The state superintendent may delegate, subject to the approval of the board, the appointing authority conferred upon him/her by law as to the recovery school district to the recovery school district superintendent. The state superintendent may delegate administrative authority conferred upon him/her by law as to the recovery school district to the recovery school district superintendent, subject to any restrictions provided by law, rule, or policy.

E. Duties

1. The state superintendent shall establish such divisions within the LDE as are necessary or appropriate to carry out the functions vested by or under authority of the constitution and laws.

2. The state superintendent shall have budgetary responsibility for all funds appropriated or allocated by the state for the day-to-day operations and for the functions of the LDE that are not inconsistent with the functions of the board.

3. The state superintendent, as the administrative head of the LDE, shall oversee the administration and distribution of all federal funds received for the benefit of those phases of education under the jurisdiction of the board, in accordance with policies adopted by the board.

4. The state superintendent may review the responsibilities of the LDE and prepare a plan to restructure and reorganize the LDE subject to the approval of the board and in accordance with Louisiana Revised Statutes 36:645.

5. The state superintendent shall provide staff services within the LDE that are needed by the board to carry out its constitutional and statutory mandates.

6. The state superintendent shall exercise his/her responsibilities for personnel appointments in the following manner.

a. The state superintendent, with the consent of the board, may establish or abolish positions that direct the offices/divisions of the LDE.

b. The state superintendent shall make appointments to senior departmental positions. Senior departmental positions are unclassified positions that compose the superintendent's cabinet and any other senior unclassified position so designated by the state superintendent. Unless otherwise provided herein or in other administrative manuals approved by the board, employees holding such positions shall serve at the pleasure of the state superintendent, in accordance with the law.

c. The state superintendent shall appoint the recovery school district superintendent with prior approval of the board. The board president shall be notified of any acting appointments taking effect and the board shall be notified of the acting appointment at its next regularly scheduled meeting. Upon appointment approval by the board, the employment of the recovery school district superintendent will continue unless he/she is removed by the board upon recommendation of the state superintendent or upon voluntary separation from employment.

d. The state superintendent shall appoint the superintendent of the special school district, subject to confirmation by the Senate.

e. The state superintendent shall employ/appoint and fix the salaries and duties of employees of the LDE, including the special school district and the recovery school district, subject to applicable Civil Service laws, rules, and regulations, and other applicable laws, rules, regulations, and policies.

f. The selection of appointees to all unclassified positions shall be based on professional, technical, and/or clerical qualifications appropriate to each position.

g. No person shall, on the basis of race, color, religion, sex, age, national origin, handicap, veteran status, or any other non-merit factor, be discriminated against in any employment practice.

h. In addition to the above, the state superintendent shall exercise his/her responsibilities for personnel matters in accordance with the constitution and laws of the state.

7. The state superintendent's responsibilities with respect to local education agencies shall include, but not be limited to:

a. Pursuant to the rules, regulations, and policies adopted by the board, the state superintendent shall offer assistance to local public school officials and the elementary and secondary schools of the state in their efforts to adopt procedures by which:

- i. courses of study prescribed by the board will be followed;
- ii. teachers will meet the standards prescribed by the board; and
- iii. schools will meet the standards for approval, which are prescribed by law or by the board.

b. The state superintendent shall assist the local education agencies and teachers in securing the best possible results from their efforts.

c. The state superintendent shall prescribe the manner and substance of classifications for program cost accounting to be used by local education agencies in the preparation and adoption of annual budgets.

d. The state superintendent shall receive the annual budget of each local education agency and may require the local education agency to operate the schools within the receipts normally expected and set up in the school system budget. This shall include the right to advise school boards participating in the state equalization fund in all matters relating to the preparation and adoption of their budgets and the right to require change when it is clearly evident that the budget fails to comply with the intent and purpose of the state equalization fund.

e. The state superintendent shall receive the annual financial report submitted by local education agencies, as required by law, regulation, or policy.

f. The state superintendent shall identify local school systems as being "academically in crisis" and notify appropriate officials, as provided by law.

8. The state superintendent shall make recommendations to the board for the approval of type 5 charter schools, subject to the policies and processes approved by the board.

9. The state superintendent shall periodically inform the board of areas in which policy development is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:21(C), 17:6(B), 17:21(B), 17:21(D), 17:21(A), 17:1990, 17:24(A), 17:24(B), 17:24(C), 17:24(D), 17:22(2)(f), 36:645, 17:22(6), 17:88(B), 17:88(D), 17:92, 17:10.6(A)(2), 17:3983, 17:43, 17:1945, 36:642(C)(1), and 36:648.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008), amended LR 37:886 (March 2011), LR 38:3150 (December 2012), LR 39:3262 (December 2013).

§311. The Special School District

A. Functions of the Special School District

1. The special school district is an educational service agency administered by the LDE that includes the Louisiana special schools (Louisiana Schools for the Deaf and Visually Impaired and the Louisiana Special Education Center) and the special school programs. The special school district is available to all eligible students regardless of their place of residence within the state.

a. The Louisiana special schools are state-operated schools providing educational programs and services for residential and/or day students. The Louisiana special schools are established to provide a free appropriate public education for children with low incidence disabilities who meet the admission criteria (i.e., deaf, blind, orthopedically impaired) for each such special school and who are enrolled in such special school.

b. The special school programs provide educational services to students enrolled in state approved programs in non-traditional settings such as those provided by the Office of Citizens with Developmental Disabilities, the Office of Behavioral Health, the Office of Juvenile Justice, and the Department of Public Safety and Corrections.

B. Administration

1. The special school district shall be under the administration and supervision of a superintendent of the special school district. The superintendent of the special school district shall exercise all duties and functions under the direct supervision and control of the state superintendent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:4.1, R.S. 17:6(B), R.S. 17:43, R.S. 17:1945, R.S. 36:642(C)(1), and R.S. 36:648.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:412 (March 2008), amended LR 38:3151 (December 2012), LR 39:3262 (December 2013).

§313. The Recovery School District

A. Establishment

1. The recovery school district is established as an intermediate educational unit administered by the LDE, subject to the approval of the board, to provide an appropriate education for children attending any public elementary or secondary school operated under the jurisdiction and direction of any city, parish, or other local public school board or any other public entity, which has been transferred to its jurisdiction pursuant to R.S. 17:10.5 or 10.7.

B. Organization and Administration of the Recovery School District

1. The recovery school district shall be administered by the LDE, subject to the approval of the board.

2. The board shall oversee the administration of the recovery school district, with such administration subject to board approval through the policies it prescribes.

3. The overall administrative organization of the recovery school district consists of the board in the exercise of its approval over the administration of the recovery school district, the state superintendent acting as the recovery school district's governing authority consistent with authority delegated by the board and statutory authority acknowledged by the board, and a superintendent of the recovery school district.

4. The recovery school district shall be administered by a superintendent, who shall report to the state superintendent. The responsibilities and duties of the recovery school district superintendent shall be prescribed by the state superintendent.

C. Policies and Procedures for the Recovery School District

1. Policies for the board's administrative oversight of the recovery school district shall be adopted by BESE and set forth in the recovery school district bulletin. Administrative oversight shall include, but not be limited to:

a. policy governing activities that will ensure the purpose and functions of the recovery school district are being achieved;

b. fiscal responsibilities are being met;

c. community involvement is sought;

d. property is managed and developed under uniform and established guidelines;

e. student progress is measured and corrective action is taken when necessary;

f. district progress is measured in all essential areas and corrective action is taken when necessary;

g. reporting and planning measures are defined;

h. compliance with law and board policy exists;

i. charter school oversight exists; and

j. the recovery school district plan is being fulfilled.

2. Procedures for the operation of the schools within the recovery school addressing the day-to-day operation of schools by the recovery school district shall be adopted by the state superintendent and set forth in the *Recovery School District Handbook* and supplements thereto. The state superintendent shall report on such procedures adopted, as required by the board. The board shall have the authority to review and provide guidance on procedures adopted by the superintendent and shall have the authority to direct the amendment of a procedure the board determines is in violation of law or policy. Operational procedures shall include, but not be limited to:

a. instructional program;

b. human resource and employment policies;

c. rules governing student conduct, rights, and responsibilities;

d. fiscal management;

e. business management;

f. school facility use and maintenance;

g. district and student records;

h. public and educational agency relations; and

i. any procedure required by the RSD bulletin.

3. The recovery school district shall be subject to other BESE bulletins, including but not limited to the BESE charter school bulletin, to the extent that they are applicable to schools under its jurisdiction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(B), and R.S. 36:651(F).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:413 (March 2008), amended LR 36:2851 (December 2010), LR 38:3151 (December 2012), LR 39:3262 (December 2013).

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:
 - i. make recommendations with respect to the board's annual establishment of priorities;
 - ii. make recommendations concerning any Louisiana Quality Education Support Fund policies, procedures, and/or activities;
 - iii. participate in any public hearing conducted by the board relative to the Louisiana Quality Education Support Fund;
 - iv. consider all matters referred by the board or the LDE.
2. Nonpublic School Council:
 - a. authority—per state statute (R.S. 17:11);
 - b. membership—eleven members, one member recommended by each board member, representing approved nonpublic schools;
 - 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. 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 chair or the executive director one week prior to the meeting and a proxy may be named by the appointed member to serve for a total of three meetings. A council member shall be removed and his/her seat declared vacant if he/she is no longer a legal resident of Louisiana, fails to remain active in or is no longer employed by the organization or agency he/she was appointed to represent, or misses more than two meetings, unless excused prior to the meeting by the council chair.

b. The appointing authority for each member shall be notified immediately following each scheduled meeting indicating nonattendance of the appointee. The notification should include:

- i. name of the council member and council on which serving;
- ii. date of the meeting; and
- iii. board policy on attendance.

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. Agendas of council meetings shall be distributed to council members by the board staff at least 7 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), LR 44:744 (April 2018).

Chapter 7. Operations

§705. Agenda

A. Establishing Board Agenda

1. The board recorder shall prepare the agenda.

2. A board member, the state superintendent, or the executive director may request that any item be included thereon either at a prior meeting or within the specified time before preparation and mailing of the agenda.

3. A board member, the state superintendent, or the executive director must request that an item be placed on the emergency agenda at least 26 hours prior to a scheduled meeting. The emergency agenda must be posted publicly at least 24 hours prior to the scheduled meeting.

B. Establishing Committee Agenda

1. The agenda for each committee shall consist of only those items listed in the public notice in accordance with the Louisiana Open Meetings Law.

2. The agenda for each committee meeting may include consent items, standing items, unfinished business, new business resulting from board referrals, and public comments received regarding Notices of Intent.

3. Items shall be placed on a committee agenda by using either the board's referral process or the draft agenda process as established through a board protocol. Items may be referred by board members, the state superintendent, or the BESE executive director. Board members must submit agenda item requests at least 18 days prior to a scheduled committee meeting.

C. Amending Board or Committee Agenda. 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.

D. Distribution and Posting of the Agenda. The agenda for board and committee meetings shall be distributed to board members at least 10 days prior to the meeting date and posted on the web at <http://www.bese.louisiana.gov>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 37:2141 (July 2011), LR 38:3153 (December 2012), LR 39:3264 (December 2013).

§715. Executive Session

A. An executive session of the board or its committees shall be conducted in accordance with state law and ordinarily shall include, but not be limited to, matters dealing with personnel, security measures, prospective litigation, and pending litigation.

B. The board may hold an executive session upon an affirmative vote, taken at an open meeting, of two-thirds of its constituent members present. The vote shall be taken by roll call vote. The vote of each member and the reason for holding an executive session shall be recorded and entered into the minutes of the meeting.

C. No final or binding action shall be taken during executive session.

D. When pending or prospective litigation may be considered by the board in executive session, the following information must be included in or attached to the written public notice of the meeting:

1. a statement identifying the court, case number, and the parties relative to any pending litigation; or

2. a statement identifying the parties involved and reasonably identifying the subject matter of any prospective litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:16, R.S. 42:17, and R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 39:3265 (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 Impact Statement, a Small Business Analysis, a Provider Impact 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 FEIS 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 FEIS approval process, and the *Louisiana Register* deadlines, the entire process takes a minimum of five months to complete.

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

F. Codified board policies are posted on the *Louisiana Register* website and are accessible through links on the BESE website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008), amended LR 37:3220 (November 2011), LR 38:3156 (December 2012), LR 39:3267 (December 2013), LR 44:745 (April 2018).

Subpart 3. Bulletin 921—Policy and Procedure Manual for the Louisiana Quality Education Support Fund 8(g)

Chapter 21. Legislation and Purpose

§2103. Definitions

[Formerly LAC 28:XCIII.103]

A. As used in this document, the following terms shall have the meaning specified:

8(g) Advisory Council—an advisory council to the BESE which annually makes recommendations on the program, budget, and recommended projects for funding to be allocated by the BESE. The council shall operate in accordance with the BESE policy concerning the operation of advisory councils and shall serve without compensation, except for reasonable and necessary expenses for attending meetings and performing duties.

8(g) Program and Budget—consists of the broad categories of programs within constitutional categories and the total dollars the board proposed to fund in each category.

8(g) Support Fund (Louisiana Quality Education Support Fund)—a special fund in the Louisiana State Treasury, as specified in Article VII, Section 10.1 of the Louisiana Constitution and R.S. 17:3801. Fifty percent of the monies accruing to the support fund will be reimbursed by the treasurer on an annual basis in accordance with legislative appropriation for allocation by the Louisiana state Board of Elementary and Secondary Education (BESE) and the remaining 50 percent by the Louisiana Board of Regents.

Administrative Costs—no more than 3 percent of the average annual amount of actual expenditures by each board for the most recent three previous fiscal years for which actual expenditures are available shall be utilized for employment of personnel and associated travel and other benefits, the operation of the 8(g) Advisory Council activities, costs associated with monitoring and administration of funded activities, and the necessary evaluations, audits, and preparation of the annual program and budget for the allocation process.

Applicant—an eligible agency which submits a proposal for funding in response to a request for projects by the BESE.

Approved Nonpublic School—any nonpublic school which has been certified by the board to meet nonpublic school standards and is approved for state funding under *Brumfield vs. Dodd*.

Board—Louisiana state Board of Elementary and Secondary Education, also referred to as BESE and SBESE.

Budgets—a detailed monetary explanation for proposed expenditures for each project. These must be approved prior to the release of funds.

Equipment—equipment used for day-to-day, direct instruction of students. The term includes all items that are durable (sturdy) in nature and tend to last more than a year. The term does not include equipment used in any manner for administrative purposes, such as copiers, office file cabinets and/or office furniture, and so forth.

Exemplary Program—a model program or project which is worthy of imitation and which provided the following results:

- a. there was ample objective evidence of effectiveness;
- b. the stated objectives were obtained;
- c. the educational needs of the students were met; and
- d. there was a clear and attributable connection between treatment and effect.

Excess Costs—funds which may be assessed by an applicant to conduct the activities listed in a proposal for 8(g) funds. All assessments must relate directly to the proposed 8(g) activities and reflect costs to the applicant which are above and beyond costs for normal operating activities.

Fiscal Year (FY)—the fiscal year shall begin on July 1 and end June 30.

Foreign Language Instruction—academic instruction in any language other than English. The term does not include instruction in English as a second language.

Library Books—any books to be available for circulation among the general school population, or a specific component of the general school population, for research or enhancement.

Louisiana Education Quality Trust Fund (Permanent Trust Fund)—a fund in the Louisiana State Treasury which is derived from settlement with the federal government under 43 USC 1337(g), as specified in Article VII, Section 10.1 of the Louisiana Constitution and R.S. 17:3801. Earnings of the Permanent Trust Fund accrue to the Louisiana Quality Education Support Fund as specified by law.

Other Instructional Materials—any materials used in the direct instruction of students which are not included under the annual per-student allocation for "materials of instruction" through the Department of Education, but not limited to, computer software, art and music supplies, instructional films, records slides, and other materials of a similar nature.

Pilot Program—an educational program which will implement educational procedures, activities, objectives, standards, curricula, methodology, content, and so forth which do not presently exist in the school or school system seeking support funds for the program.

Pre-School Program—any educational program provided for children who have not attained their fifth birthday. The term includes any and all types of educational readiness activities.

Priorities—the areas of focus/need, as established by the BESE, which will be utilized in the determination of the program and budget. Examples of priorities might be programs of statewide impact, regional impact, local impact or reading, discipline, mathematics, foreign languages, textbooks, etc.

Project/Application—the document submitted by an applicant requesting support fund monies which meets the requirements established by the BESE.

Project/Application Deadline/Timeline—the date(s) by which an applicant must submit a project to be considered for funding by the BESE from support fund monies.

Projects—the specific design for activities to be awarded funds under each category in the program and budget. These must be approved prior to release of funds.

Project Year/Term—the project year/term shall be the time established by an applicant/recipient in the project for the accomplishment of activities.

Recipient—an applicant who is awarded funds based upon an approved project.

Remediation Program—program which teaches an educational skill which is normally taught at a lower grade level, such as basic education provided for teenagers or adults, elementary grade level reading instruction provided at middle or secondary levels, and so forth. The term also includes social services provided in alternative school settings,

special programs for high risk or potential drop-outs, and other ancillary support services designed to elevate any student or group of students to appropriate grade level performance.

Request for Projects—the document issued to elicit plans from applicants who intend to conduct an activity from 8(g) funds which meets the priorities and program and budget established by the BESE. The document will contain the mandatory components established by the BESE as a basis for funding eligibility, (i.e. project goals, objectives, activities, budget, projected project evaluation and project timelines).

Research—a procedure to investigate conditions existing within specific school populations which is structured in accordance with the accepted standards of the American Educational Research Association.

Scholarships—payment of a specific lump sum of money for a specified period of study at an institution of higher education within this state. The sum of money paid to scholarship recipients may be utilized by recipients to meet any expenses of the said study.

Stipends—payment of specific costs associated with specific course work at institutions of higher education within this state. The term also includes tuition reimbursements.

Superior Textbooks—textbooks approved by the board which are supplementary to regularly approved textbooks or used to enhance instruction.

Supplant/Displace/Replace—legally prohibited types of expenditures for 8(g) funds. For purpose of this policy, supplant, displace, and replace refer to the process whereby 8(g) funds would be utilized in lieu of funds available from a source other than 8(g) funds, or 8(g) funds would be utilized to fund activities previously funded by a source other than 8(g) funds. The prohibition specifically refers to State General Fund (SGF) monies utilized to fund the Minimum Foundation Program in elementary and secondary education and SGF funded activities in vocational-technical education. The terms shall apply to the two fiscal years prior to the effective date of funding.

Technology—any tool that can be used in the school with students to enhance academic achievement (such as local and remote computer-based information, multimedia, calculators, satellite and broadcast resources) or any course or program which employs the use of such technology as it relates to student academic achievement in any of the core curriculum areas undergoing standards reform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3142 (December 2012).

Chapter 27. Annual 8(g) Program and Budget

Subchapter A. Establishment of Annual 8(g) Program and Budget

§2709. Notice of Adoption of Annual 8(g) Program and Budget [Formerly LAC 28:XCIII.709]

A. The board shall publish a notice of its adoption of the annual 8(g) program and budget in the *Louisiana Register*. Such notice shall consist of a summary of the educational objectives and/or programs to receive budgetary priorities, including the proposed allocation. Such report shall include, but not be limited to, the following:

1. the amount set aside for administrative purposes;
2. an explanation of specific priority(ies), if any, established by the board, and the dollar amount allocated for each program; and
3. any additional information relative to board actions which has a direct bearing upon the eventual awarding of support fund monies to eligible recipients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3144 (December 2012).