

NOTICE OF INTENT

Board of Elementary and Secondary Education

Part CXLV. Bulletin 129—The Recovery School District

(LAC 28: CXLV.505)

In accordance with R.S. 49:950, et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education approved for advertisement to revise *Bulletin 129—The Recovery School District* §505. Return of Schools to Local School Board. Act 91 of the 2016 Regular Legislative Session provides for the unification of public schools in Orleans Parish under the oversight of the Orleans Parish School Board. This revision adds language from Act 91 of the 2016 Regular Legislative Session that provides for specific responsibilities of BESE as it relates to the potential postponement of the unification of schools in Orleans Parish for specified reasons.

Title 28 EDUCATION

Part CXLV. Bulletin 129—The Recovery School District

Chapter 5. Failed Schools

§505. Return of Schools to Local School Board

A. – B.1 ...

2. A non-failing charter school is eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

a. The charter school will have been under the jurisdiction of the recovery school district for a minimum of five years. A charter school shall be considered to have been under the jurisdiction of the RSD for five years when five complete school years have passed since the approval of the transfer to the RSD by BESE under R.S. 17:10.5 or 17:10.7, regardless of changing operators or site codes for the charter school since that time. The decision to transfer will be considered at the earliest during the charter school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

2.b. - 4. ...

5. BESE shall only approve a charter school board request to transfer to the charter school to the jurisdiction ~~to~~ of the local school board if the following requirements are met:

a. - b.vi.(b). ...

C. Unification of Schools Pursuant to R.S. 17:10.7.1

1. No sooner than July 1, 2018, and no later than July 1, 2019, Type 5 charter schools located in Orleans Parish shall be transferred to the jurisdiction of the Orleans Parish School Board pursuant to the timelines and procedures detailed in R.S. 17:10.7.1.

2. The transfer of charter schools from the RSD to the Orleans Parish School Board pursuant to R.S. 17:10.7.1 shall occur on July 1, 2018, unless such transfer is postponed by a majority vote of the full membership of the Orleans Parish School board or the full membership of BESE.

3. BESE or the Orleans Parish School Board may approve such postponement only if one or more of the following apply:

- a. The Orleans Parish School Board is not financially stable.
- b. The Orleans Parish School Board lacks a comprehensive expulsion and reentry program for students.
- c. The Orleans Parish School Board cannot assure the stability of employee retirement benefits.
- d. The Orleans Parish School Board cannot ensure or provide sufficient insurance coverage.

e. The superintendent for the Orleans Parish School Board and the superintendent of the RSD provide written certification that it is not feasible to meet the time lines, tasks, and benchmarks established in the plan to effect the return of schools from the Recovery School District to the jurisdiction of the Orleans Parish School Board as provided in R.S. 17:10.7.1.

f. The advisory committee created pursuant to R.S. 17:10.7.1, by a majority vote of its full membership, officially requests the Orleans Parish School Board or BESE consider such postponement.

4. Any action taken by the Orleans Parish School Board or BESE to postpone the final transfer of schools from the RSD to the Orleans Parish School Board must occur no later than January 31, 2018, and in no instance shall such postponement extend the final transfer date beyond July 1, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:10.5(C), and R.S. 17:10.7(C).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:354 (February 2012), LR 38:1396 (June 2012), LR 39:82 (January 2013), LR 39:1022 (April 2013), LR 39:3255 (December 2013), LR 42:551 (April 2016), LR 42:

STATE BOARD OF ELEMENTARY AND SECONDARY EDUCATION
FAMILY IMPACT STATEMENT
(LA R.S. 49:953 and 972)

Person Preparing Statement: Ryan Gremillion
Phone: 225-342-1501
Division: Policy Office
Rule Title: Part CXLV. Bulletin 129—The Recovery School District

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

PLEASE RESPOND TO THE FOLLOWING:

1. WILL THE PROPOSED RULE AFFECT THE STABILITY OF THE FAMILY?
 No
 Yes
 Lacks sufficient information to determine
2. WILL THE PROPOSED RULE AFFECT THE AUTHORITY AND RIGHTS OF PARENTS REGARDING THE EDUCATION AND SUPERVISION OF THEIR CHILDREN?
 No
 Yes
 Lacks sufficient information to determine.
3. WILL THE PROPOSED RULE AFFECT THE FUNCTIONING OF THE FAMILY?
 No
 Yes
 Lacks sufficient information to determine
4. WILL THE PROPOSED RULE AFFECT FAMILY EARNINGS AND FAMILY BUDGET?
 No
 Yes
 Lacks sufficient information to determine
5. WILL THE PROPOSED RULE AFFECT THE BEHAVIOR AND PERSONAL RESPONSIBILITY OF CHILDREN?
 No
 Yes
 Lacks sufficient information to determine
6. IS THE FAMILY OR A LOCAL GOVERNMENT ABLE TO PERFORM THE FUNCTION AS CONTAINED IN THE PROPOSED RULE?
 No
 Yes
 Lacks sufficient information to determine

Signature of Contact Person: Ryan Gremillion
Date Submitted: August 4, 2016

STATE BOARD OF ELEMENTARY AND SECONDARY EDUCATION
POVERTY IMPACT STATEMENT
(LA R.S. 49:973)

Person Preparing Statement: Ryan Gremillion

Phone: 225-342-1501

Division: Policy Office

Rule Title: Part CXLV. Bulletin 129—The Recovery School District

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

PLEASE RESPOND TO THE FOLLOWING:

1. WILL THE PROPOSED RULE AFFECT THE HOUSEHOLD INCOME, ASSETS, AND FINANCIAL SECURITY?

- No
 Yes
 Lacks sufficient information to determine

2. WILL THE PROPOSED RULE AFFECT EARLY CHILDHOOD DEVELOPMENT AND PRESCHOOL THROUGH POSTSECONDARY EDUCATION DEVELOPMENT?

- No
 Yes
 Lacks sufficient information to determine

3. WILL THE PROPOSED RULE AFFECT EMPLOYMENT AND WORKFORCE DEVELOPMENT?

- No
 Yes
 Lacks sufficient information to determine

4. WILL THE PROPOSED RULE AFFECT TAXES AND TAX CREDITS?

- No
 Yes
 Lacks sufficient information to determine

5. WILL THE PROPOSED RULE AFFECT CHILD AND DEPENDENT CARE, HOUSING, HEALTH CARE, NUTRITION, TRANSPORTATION, AND UTILITIES ASSISTANCE?

- No
 Yes
 Lacks sufficient information to determine

Signature of Contact Person: Ryan Gremillion

Date Submitted: August 4, 2016

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

*rec'd from LDE 8/5/16
to LFO 8/5/16
back from LFO 8/5/16*

Person Preparing Statement: Ryan Gremillion Dept.: LA Department of Education
Board of Elementary & Secondary Education

Phone: (225) 342-1501 Office: Policy

Return Address: P. O. Box 94064 Rule Title: Part CXLV. Bulletin 129—The Recovery School District
Baton Rouge, LA Date Rule Takes Effect: Upon final adoption by BESE

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

The proposed policy revisions will have no effect on costs or savings to the state. There will be an increase in expenditures of the Orleans Parish School Board (OPSB), with a corresponding reduction in expenses of the Recovery School District (RSD) as a result of the unification of schools located in Orleans Parish. The net impact is indeterminable at this time.

Act 91 of the 2016 Regular Legislative Session provides for the unification of public schools in Orleans Parish under the oversight of the Orleans Parish School Board. This revision adds language from Act 91 of the 2016 Regular Legislative Session that provides for specific responsibilities of BESE and the Orleans Parish School Board as it relates to the timeframe for the transfer and the potential postponement of the unification of schools in Orleans Parish for specified reasons.

Currently, certain oversight and coordinating functions and responsibilities are shared by both the OPSB and the RSD. As a result of the unification, these functions and responsibilities will transfer to the OPSB including Portfolio Management, Citywide Services and Enrollment, Facilities, Local Educational Authority (LEA) Responsibilities, Family and Stakeholder Engagement, and Finance and Operations resulting in an increase in expenditures. The OPSB projects additional staffing needs and increased operating expenses as well as one-time transition expenses. However, there may be some savings realized through the combination of overlapping functions in the OPSB and the RSD. A financial analysis is ongoing and the net impact will be determined and included in the final transition plan as required by R.S. 17:10.7.1.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

Self-generated revenues currently collected by the RSD will subsequently transfer to the OPSB to be used for the integration of administrative and oversight functions into the OPSB operations. This includes authorized fees paid by charter schools to the school board as well as set aside funding for a facilities preservation program authorized by Act 543 of 2014; there is no net change in these revenues.

MFP funding for Type 5 schools is allocated to the RSD for distribution to the schools. As a result of the transfer back to the OPSB, schools may opt to exercise the authority to operate as their own Local Education Authority as a Type 3B school. MFP funding would therefore flow directly to the schools, rather than through the OPSB.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There may be changes to the allocation and distribution of MFP funds to charter schools due to the requirements of the unification plan regarding participation in a parish-wide enrollment system, lottery preferences, and a district level funding allocation based on student characteristics or needs. Such changes will be determined based on each schools' enrollment and the application of such policies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be a reduction in staffing at the RSD and an increase in staffing at the OPSB. It is unknown at this time whether the unification will result in a net increase or net decrease in employment opportunities for existing and new personnel.

Beth Scioneaux

Signature of Agency Head or Designee

Evan Brassel, Staff Director

Legislative Fiscal Officer or Designee

Beth Scioneaux, Deputy Superintendent for Management and Finance

Typed Name and Title of Agency Head or Designee

8/5/16

Date of Signature

8/7/16

Date of Signature

LFO 10/04

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

Act 91 of the 2016 Regular Legislative Session provides for the unification of public schools in Orleans Parish under the oversight of the Orleans Parish School Board. This revision adds language from Act 91 of the 2016 Regular Legislative Session that provides for specific responsibilities of BESE as it relates to the potential postponement of the unification of schools in Orleans Parish for specified reasons.

- B. Summarize the circumstances that require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The revisions are necessary to align policy with Act 91 of the 2016 Regular Legislative Session relative to the unification of schools in Orleans Parish.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session.

1. Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No

2. If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ NO. If no, provide justification as to why this rule change should be published at this time.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

COSTS	FY16-17	FY17-18	FY18-19
PERSONAL SERVICES			
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
<u>MAJOR REPAIR & CONSTR.</u>			
<u>POSITIONS (#)</u>			
TOTAL	-0-	-----Indeterminable-----	

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

The proposed policies will have no effect on costs or savings to the state.

3. Sources of funding for implementing the proposed rule or rule change.

SOURCE	FY16-17	FY17-18	FY18-19
STATE GENERAL FUND			
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	-0-	-0-	-0-

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Not applicable.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There will be an increase in expenditures of the Orleans Parish School Board (OPSB), with a corresponding reduction in expenses of the Recovery School District (RSD) as a result of the unification of schools located in Orleans Parish. The net impact is indeterminable at this time.

Currently, certain oversight and coordinating functions and responsibilities are shared by both the OPSB and the RSD. As a result of the unification, these functions and responsibilities will transfer to the OPSB including Portfolio Management, Citywide Services and Enrollment, Facilities, Local Educational Authority (LEA) Responsibilities, Family and Stakeholder Engagement, and Finance and Operations resulting in an increase in expenditures. The OPSB projects additional staffing needs and increased operating expenses as well as one-time transition expenses. However, there may be some savings realized through the combination of overlapping functions in the OPSB and the RSD. A financial analysis is ongoing and the net impact will be determined and included in the final transition plan as required by R.S. 17:10.7.1.

2. Indicate the sources of funding of the local governmental unit that will be affected by these costs or savings.

Local School districts are funded with a mix of state funds (MFP funding), local sales and property tax revenues, and self generated revenues.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

Self-generated revenues currently collected by the RSD will subsequently transfer to the OPSB to be used for the integration of administrative and oversight functions into the OPSB operations. This includes authorized fees paid by charter schools to the school board as well as set aside funding for a facilities preservation program authorized by Act 543 of 2014. There is no anticipated net change in these revenues as a result of the policy revision.

MFP funding for Type 5 charter schools is allocated to RSD for distribution to the schools. As a result of the transfer back to the OPSB, schools which opt to exercise the authority to operate as their own LEA as a Type 3B will be paid directly rather than through the OPSB. The extent of these decreases are indeterminable at this time and will depend upon the number of schools exercising this option at the time of transfer.

REVENUE INCREASE/DECREASE	FY16-17	FY17-18	FY18-19
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL	-0-	-0-	-0-

*Specify the particular fund being impacted.

B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

See above.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There may be changes to the allocation and distribution of MFP funds to charter schools due to the requirements of the unification plan regarding participation in a parish-wide enrollment system, lottery preferences, and a district level funding allocation based on student characteristics or needs. Such changes will be determined based on each schools' enrollment and are indeterminable at this time.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

No impact on income is anticipated as a result of this rule change.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There will be a reduction in staffing at the RSD and an increase in staffing at the OPSB. It is unknown at this time whether the unification will result in a net increase or net decrease in employment opportunities for existing and new personnel.

COMPARISON DOCUMENT

**Title 28
EDUCATION**

Part CXLV. Bulletin 129—The Recovery School District

Chapter 5. Failed Schools

§505. Return of Schools to Local School Board

A. - B.1 ...

2. A non-failing charter school is eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

a. The charter school will have been under the jurisdiction of the recovery school district for a minimum of five years. A charter school shall be considered to have been under the jurisdiction of the RSD for five years when five complete school years have passed since the approval of the transfer to the RSD by BESE under R.S. 17:10.5 or 17:10.7, regardless of changing operators or site codes for the charter school since that time. The decision to transfer will be considered at the earliest during the charter school's fifth year under the jurisdiction of the RSD, with the proposed transfer occurring at the conclusion of that same school year.

2.b. - 4. ...

5. BESE shall only approve a charter school board request to transfer to the charter school to the jurisdiction ~~to~~ of the local school board if the following requirements are met:

a. - b.vi.(b). ...

C. Unification of Schools Pursuant to R.S. 17:10.7.1

1. No sooner than July 1, 2018, and no later than July 1, 2019, Type 5 charter schools located in Orleans Parish shall be transferred to the jurisdiction of the Orleans Parish School Board pursuant to the timelines and procedures detailed in R.S. 17:10.7.1.

2. The transfer of charter schools from the RSD to the Orleans Parish School Board pursuant to R.S. 17:10.7.1 shall occur on July 1, 2018, unless such transfer is postponed by a majority vote of the full membership of the Orleans Parish School board or the full membership of BESE.

3. BESE or the Orleans Parish School Board may approve such postponement only if one or more of the following apply:

a. The Orleans Parish School Board is not financially stable.

b. The Orleans Parish School Board lacks a comprehensive expulsion and reentry program for students.

c. The Orleans Parish School Board cannot assure the stability of employee retirement benefits.

d. The Orleans Parish School Board cannot ensure or provide sufficient insurance coverage.

e. The superintendent for the Orleans Parish School Board and the superintendent of the RSD provide written certification that it is not feasible to meet the time lines, tasks, and benchmarks established in the plan to effect the return of schools from the Recovery School District to the jurisdiction of the Orleans Parish School Board as provided in R.S. 17:10.7.1.

f. The advisory committee created pursuant to R.S. 17:10.7.1, by a majority vote of its full membership, officially requests the Orleans Parish School Board or BESE consider such postponement.

4. Any action taken by the Orleans Parish School Board or BESE to postpone the final transfer of schools from the RSD to the Orleans Parish School Board must occur no later than January 31, 2018, and in no instance shall such postponement extend the final transfer date beyond July 1, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:10.5(C), and R.S. 17:10.7(C).

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