

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Part XCI. Bulletin 1922—Compliance Monitoring Procedures

(LAC 28: XCI.101, 105, 107, 109, 301, 303, 305, 307, 311, and 313)

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 1922—Compliance Monitoring Procedures* §101. Monitoring, §105. Local Educational Agencies (LEAs), §107. Corrective Action and Sanctions, §109. Components of the Continuous Improvement Monitoring Process, §301. Categories of Monitoring, §303 Timelines, §305. On-Site Visits, §307. Regulatory Issues Reviewed On-Site, §311. Activities Conducted During the On-Site Visit, and §313. Activities/Procedures at the Completion of the On-Site Visit. Bulletin 1922 outlines the processes for special education monitoring in Louisiana. The proposed revisions align state policy with data privacy statutes, place local education agencies (LEAs) in tiered categories for monitoring selection - low, moderate, and high risk; add Types 1B and 3B charter schools to list of LEAs subject to monitoring; add LEA determinations to list strategies and components that may be utilized during the monitoring process; and allow on-site visits to be conducted by state-authorized individuals with training and experience in the program areas that are being monitored.

### Title 28 EDUCATION

#### Part XCI. Bulletin 1922—Compliance Monitoring Procedures

##### Chapter 1. Overview

#### §101. Monitoring

A. – B. ...

C. The quantitative data will be used to determine specific performance profiles for local educational agencies (LEAs) using data relative to a set of variables referenced in 101B. Performance profiles will be issued annually. The quantitative data will be collected in relation to a set of variables selected by a statewide group of stakeholders from various agencies and entities. This group will meet at least annually with the Louisiana Department of Education (LDE) to select only specific indicators that will be used to determine a LEA's performance status. Any changes to the process shall be presented to the Special Education Advisory Panel.

D. LEAs will be placed in tiered categories for monitoring selection. The three tiers of monitoring are low, moderate, and high risk. Upon validation of quantitative data, LEAs will be notified of their performance status and monitoring event.

1. LEAs designated as high-risk will receive an on-site compliance monitoring visit in order to review qualitative data specific to selected qualitative indicators that focus on the LEA's lowest performing indicator areas. Additional data may be reviewed prior to and during the on-site visit.

2. The LEAs designated as continuous improvement or have a ranking of low or moderate risk will not be targeted to receive an on-site compliance visit. Some districts may be required to develop a corrective action plan because of triggers within the data that signify concerns such as when the performance of students with disabilities is disproportionately below the state average in any of the required performance indicators. These performance indicators include, but are not limited to suspension, diploma, dropout, and state-wide assessment rates.

3. ...

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30.414 (March 2004), amended LR 31:3104 (December 2005), LR 37:3216 (November 2011), LR 42:.

#### §105. Local Educational Agencies (LEAs)

A. Local Educational Agencies (LEAs) to be monitored are:

1. city or parish school systems;
2. Special School District;
3. State Board of Elementary and Secondary Education special schools;
4. Type 1B, 2, 3B (if acting as their own LEA) and 5 charter schools; and
5. University laboratory schools not under the administration of a school district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:3105 (December 2005), LR 42:

#### §107. Corrective Action and Sanctions

A. ...

B. The LDE is authorized to take actions, consistent with applicable law, necessary to ensure compliance. Failure on the part of a participating agency to comply may result in the LDE, with the approval of its governing authority, the Board of Elementary and Secondary Education (BESE), withholding funds from the said agency. Prior to withholding any funds under this Section, the LDE shall provide reasonable notice and an opportunity for a hearing conducted by the BESE to the LEA involved.

C. LDE determines the need for a corrective action plan (CAP) to address findings of non-compliance on an individual LEA case-by-case basis. If the LDE requires a CAP, it will be developed in collaboration with the LDE following the LEA's receipt of the LDE's monitoring report. The CAP shall be submitted for approval to the LDE within 35 business days of receipt of the monitoring report. However, upon receipt of the report, the LEA shall immediately begin correcting the findings of non-compliance documented in the report. The plan will address the activities the LEA will implement to correct the areas of non-compliance identified during the on-site visit as soon as possible, but in no case more than one year from the date of the notification report from the LDE.

D. – E. ...

F. When continuing non-compliance is identified, the LDÖE will require that an Intensive Corrective Action Plan (ICAP) be developed by the LEA in collaboration with the LDE, to address the continuing noncompliance. In conjunction with the implementation of the approved plan, the LDE will impose one or more of the following sanctions described below.

1. – 2. ...

3. Direct the LEA to use IDEA Part B flow-through funds on the area or areas that the LEA is non-compliant. The LEA will submit evidence to the LDE of the specific funds targeted for areas of non-compliance. The LDE will monitor the expenditure of such funds on a consistent basis.

4. ...

5. Identify the LEA as a high-risk grantee and impose special conditions on the LEA's IDEA Part B grant. The LDE will impose one or more of the following special conditions.

a. For each year of continuing non-compliance, withhold not less than 20 percent and not more than 50 percent of the LEA's IDEA Part B grant until the LDE determines the LEA has sufficiently addressed the areas in which the LEA needs intervention.

b. – d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:3105 (December 2005), LR 32:1839 (October 2006), LR 37:3216 (November 2011), LR 42:.

#### **§109. Components of the Continuous Improvement Monitoring Process**

A. – B. 5. ...

6. Analyze FAPE tables and other mandated federal data reporting (i.e., e.g. personnel tables, child count data, LEA Determinations).

7. – 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 32:1840 (October 2006), LR 37:3217 (November 2011), LR 42:.

### **Chapter 3. Operational Procedures for Compliance Monitoring**

#### **§301. Categories of Monitoring**

A. All LEAs are placed in performance profile categories on an annual basis. The performance profile is based upon an analysis of quantitative data collected by the LDE.

B. Monitoring will focus on the variables selected annually as risk indicators. LEAs will be ranked into tiered categories for purposes of monitoring selection. On-site visits will be determined based on a variety of compliance and performance measures. LEAs designated as high-risk will be subject to on-site compliance visits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005), LR 37:3217 (November 2011), LR 42:.

#### **§303. Timelines**

A. A schedule of LEAs selected for monitoring will be issued to LEAs by September of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005), LR 37:3217 (November 2011), LR 42:.

#### **§305. On-Site Visits**

A. On-site visits will be conducted by individuals authorized by the state with training and experience in the program areas that they will be monitoring.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005), LR 37:3218 (November 2011), LR 42:.

#### **§307. Regulatory Issues Reviewed On-Site**

A. For high-risk LEAs, the regulatory issues, qualitative and quantitative indicators reviewed will be specific to the variables targeted in the LEA's performance profile. These visits will focus on selected issues. In the event that other critical issues or triggers are identified by means other than the performance profiles, the LDE will direct the team to monitor those issues for non-compliance. These other means may include, but are not limited to, complaint logs, evaluation extension requests, and financial risk assessments.

B. – C. 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), LR 42:.

#### **§311. Activities Conducted During the On-Site Visit**

A. ...

B. Individuals authorized by the state will conduct a parent focus group meeting and interview parents to collect data/information on their satisfaction of the services provided to their children and their involvement in their children's program.

C. LDE team members will visit sites, make observations, review records, and interview personnel.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), LR 42:

**§313. Activities/Procedures at the Completion of the On-Site Visit**

A. At the completion of the on-site visit, the team will meet to discuss, review, and analyze the team findings and to summarize their findings on LDE-issued forms. An LDE team member will meet with representatives of the LEA at the conclusion of the on-site visit.

B. – D. ...

E. The LEA, in collaboration with the LDE, will be required to design a corrective action plan that defines specific supports and resources that the LEA must have in order to implement the corrective action plan. The CAP must demonstrate how the LEA will:

1. correct each individual case of noncompliance; and
2. correctly implement the specific regulatory requirement,

F. – G. ...

H. If there is no responses from the LEA within the established timelines, the LDE may implement any of the corrective actions or sanctions as described in Section 107.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), 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 XCI. Bulletin 1922—Compliance Monitoring Procedures

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 XCI. Bulletin 1922—Compliance Monitoring Procedures

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  
order 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 XCI. Bulletin 1922—Compliance  
Baton Rouge, LA Monitoring Procedures

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 may result in an increase in expenditures of the Department of Education; however, the extent of such increases is indeterminable at this time. Monitoring activities are funded with federal IDEA funds.

Bulletin 1922 outlines the processes for special education monitoring in Louisiana. The proposed revisions, place local education agencies (LEAs) in tiered categories for monitoring selection - low, moderate, and high risk and add Types 1B and 3B charter schools to the list of LEAs subject to monitoring. These changes are expected to increase the number of required on-site visits, as well as change the type of monitoring for the new categories, which may increase monitoring costs. The changes add LEA determinations to the list of strategies and components that may be utilized during the monitoring selection process. Finally, in light of state privacy laws, parents will no longer be eligible to serve on the teams that conduct monitoring activities involving student information. These activities may only be conducted by state-authorized individuals with training and experience in the program areas that are being monitored. However, there is no anticipated impact as this has been the department's practice since July 2015.

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

This policy change will have no effect on revenue collections of state or local governmental units.

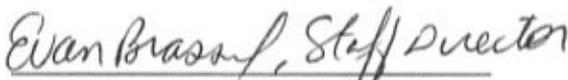
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

There will be no estimated cost and/or economic benefit to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

  
Signature of Agency Head or Designee

  
Legislative Fiscal Officer or Designee

Beth Scioneaux, Deputy Superintendent for Management and Finance  
Typed Name and Title of Agency Head or Designee

8/7/16  
Date of Signature

LFO 10/04

8/7/16  
Date of Signature

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).

Bulletin 1922 outlines the processes for special education monitoring in Louisiana. The proposed revisions align state policy with data privacy statutes, place local education agencies (LEAs) in tiered categories for monitoring selection - low, moderate, and high risk; add Types 1B and 3B charter schools to list of LEAs subject to monitoring; add LEA determinations to list strategies and components that may be utilized during the monitoring process; and allow on-site visits to be conducted by state-authorized individuals with training and experience in the program areas that are being monitored.

- 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 update special education monitoring procedures in Louisiana and align those procedures with state data privacy statutes.

- 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                | Indeterminable | Indeterminable | Indeterminable |
| PROFESSIONAL SERVICES             |                |                |                |
| OTHER CHARGES                     |                |                |                |
| EQUIPMENT                         |                |                |                |
| <u>MAJOR REPAIR &amp; CONSTR.</u> |                |                |                |
| <u>POSITIONS (#)</u>              |                |                |                |
| <b>TOTAL</b>                      | -0-            | -0-            | -0-            |

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 policy revisions may result in an increase in expenditures of the Department of Education; however, the extent of such increases is indeterminable at this time. Monitoring activities are funded with federal IDEA funds.

The proposed revisions, place local education agencies (LEAs) in tiered categories for monitoring selection - low, moderate, and high risk and add Types 1B and 3B charter schools to the list of LEAs subject to monitoring. These changes are expected to increase the number of required on-site visits, as well as change the type of monitoring for the new categories, which may increase monitoring costs. Further, in light of state privacy laws, parents will no longer be eligible to serve on the teams that conduct monitoring activities involving student information. These activities may only be conducted by state-authorized individuals with training and experience in the program areas that are being monitored. However, there is no anticipated impact as this has been the department's practice since July 2015.

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         | Indeterminable | Indeterminable | Indeterminable |
| OTHER (Specify)       |                |                |                |
| <b>TOTAL</b>          | -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?

The Department has the necessary funds to implement the proposed action. IDEA monitoring is all IDEA federal funds. The DOE uses the IDEA State Set Aside funds to monitor LEAs.

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.

The proposed action will not result in any cost, savings, or workload adjustment to local school systems.

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

No sources of funding will be affected.

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?

This proposed action will have no effect on revenue collection.

| 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.

This proposed action will have no effect on revenue collection.

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.

None.

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.

The policy will have no effect on competition and employment.

## COMPARISON DOCUMENT

### Title 28 EDUCATION

#### Part XCI. Bulletin 1922—Compliance Monitoring Procedures

##### Chapter 1. Overview

###### §101. Monitoring

A. – B. ...

C. The quantitative data will be used to determine specific performance profiles for local educational agencies (LEAs) using data relative to a set of variables referenced in 101B. Performance profiles will be issued annually. The quantitative data will be collected in relation to a set of variables selected by a statewide group of stakeholders from various agencies and entities, ~~called the Continuous Improvement Monitoring Process (CIMP) Steering Committee~~. This group will meet at least annually with the Louisiana Department of Education (LDE) to select only specific indicators that will be used to determine a LEA's performance status. Any changes to the process shall be presented to the Special Education Advisory Panel.

D. LEAs will be placed in ~~one of two performance categories within one of four population groups based on the total population of students attending public schools~~ tiered categories for monitoring selection. The three tiers of monitoring are low, moderate, and high risk. Upon validation of quantitative data, LEAs will be notified of their performance status and monitoring event. ~~The performance categories are focus and continuous improvement.~~

1. LEAs designated as ~~focus~~ high-risk will receive an on-site compliance monitoring visit in order to review qualitative data specific to selected qualitative indicators that focus on the LEA's lowest performing indicator areas. Additional data may be reviewed prior to and during the on-site visit.

2. The LEAs designated as continuous improvement or have a ranking of low or moderate risk will not be targeted to receive an on-site compliance visit. Some districts may be required to develop a corrective action plan because of triggers within the data that signify concerns such as when the performance of students with disabilities is disproportionately below the state average in any of the required performance indicators. These performance indicators include, but are not limited to suspension, diploma, dropout, and state-wide assessment rates.

3. ...

E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30.414 (March 2004), amended LR 31:3104 (December 2005), LR 37:3216 (November 2011), LR 42.

###### §105. Local Educational Agencies (LEAs)

A. Local Educational Agencies (LEAs) to be monitored are:

1. city or parish school systems;
2. Sspecial Sschool Ddistrict;
3. Sstate Bboard of Eelementary and Ssecondary Education special schools;
4. Type 1B, 2, 3B (if acting as their own LEA) and 5 Ccharter Sschools; and
5. University Llaboratory Sschools not under the administration of a school district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:3105 (December 2005), LR 42.

###### §107. Corrective Action and Sanctions

A. ...

B. The LDE is authorized to take actions, consistent with applicable law, necessary to ensure compliance. Failure on the part of a participating agency to comply may result in the LDE, with the approval of its governing authority, the Board of Elementary and Secondary Education (BESE), withholding funds from the said agency. Prior to withholding any funds under this Section, the LDE shall provide reasonable notice and an opportunity for a hearing conducted by the ~~State Board of Elementary and Secondary Education~~ (BESE) to the LEA involved.

C. LDE determines the need for a corrective action plan (CAP) to address findings of non-compliance on an individual LEA case-by-case basis. If the LDE requires a CAP, it will be developed in collaboration with the LDE following the LEA's receipt of the LDE's monitoring report. The CAP shall be submitted for approval to the LDE within 35 business days of receipt of the monitoring report, ~~for~~ However, upon receipt of the report, the LEA shall immediately begin correcting the findings of non-compliance documented in the report. The plan will address the activities the LEA will implement to correct the areas of non-compliance identified during the on-site visit: as soon as possible, but in no case more than one year from the date of the notification report from the LDE.

D. – E. ...

F. When continuing non-compliance is identified, the LDGE will require that an Intensive Corrective Action Plan (ICAP) be developed by the LEA in collaboration with the ~~department~~ LDE, to address the continuing noncompliance. In conjunction with the implementation of the approved plan, the ~~department~~ LDE will impose one or more of the following sanctions described below.

1. – 2. ...

3. Direct the LEA to use IDEA Part B flow-through funds on the area or areas that the LEA is non-compliant. The LEA will submit evidence to the ~~department~~ LDE of the specific funds targeted for areas of non-compliance. The ~~department~~ LDE will monitor the expenditure of such funds on a consistent basis.

4. ...

5. Identify the LEA as a high-risk grantee and impose special conditions on the LEA's IDEA Part B grant. The department LDE will impose one or more of the following special conditions.

a. For each year of continuing non-compliance, withhold not less than 20 percent and not more than 50 percent of the LEA's IDEA Part B grant until the department LDE determines the LEA has sufficiently addressed the areas in which the LEA needs intervention.

b. – d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:415 (March 2004), amended LR 31:3105 (December 2005), LR 32:1839 (October 2006), LR 37:3216 (November 2011), LR 42:.

#### §109. Components of the Continuous Improvement Monitoring Process

A. – B. 5. ...

6. Analyze FAPE tables and other mandated federal data reporting (i.e., e.g. personnel tables, child count data, LEA Determinations).

7. – 9. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 32:1840 (October 2006), LR 37:3217 (November 2011), LR 42:.

### Chapter 3. Operational Procedures for Compliance Monitoring

#### §301. Categories of Monitoring

A. All LEAs are placed in performance profile categories on an annual basis. The performance profile is based upon an analysis of quantitative data collected by the LDE.

B. Monitoring will focus on the variables selected annually as focus risk indicators. LEAs will be profiled on the focus indicators in defined population groups ranked into tiered categories for purposes of monitoring selection. On-site visits will be determined based on performance profiles a variety of compliance and performance measures rather than on eye-level scheduled on-site visits. LEAs designated as focus high-risk will be subject to on-site compliance visits.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005), LR 37:3217 (November 2011), LR 42:.

#### §303. Timelines

A. A schedule of on-site visits LEAs selected for monitoring will be issued to LEAs by September of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005), LR 37:3217 (November 2011), LR 42:.

#### §305. On-Site Visits

A. On-site visits will be conducted by teams of qualified individuals authorized by the state with training and experience in the program areas that they will be monitoring.

B. Non-employees selected to serve as team members will be initially required to receive a minimum of eight hours of professional development specific to conducting on-site monitoring, conducted by the LDE. In addition, team leaders, serving in coordination with staff team leaders, will be required to receive 24 hours of professional development specific to leadership, investigative techniques for specific regulatory areas, and assimilating data for report writing conducted by the LDE, with follow-up training as necessary as determined by the state monitoring coordinator. Participants will receive a certificate that indicates their completion of the required professional development activity.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3106 (December 2005), LR 37:3218 (November 2011), LR 42:.

#### §307. Regulatory Issues Reviewed On-Site

A. For focus high-risk category LEAs, the regulatory issues, qualitative and quantitative indicators reviewed will be specific to the variables targeted in the LEA's performance profile. These visits will focus on selected issues. In the event that other critical issues or triggers are identified by means other than the performance profiles, the LDE will direct the team to monitor those issues for non-compliance. These other means may include, but are not limited to, complaint logs, evaluation extension requests, and financial risk assessments.

B. – C. 13. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:417 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), LR 42:.

#### §311. Activities Conducted During the On-Site Visit

A. ...

B. The parent team member Individuals authorized by the state will conduct a parent focus group meeting and interview parents to collect data/information on their satisfaction of the services provided to their children and their involvement in their children's program.

C. LDE team members will visit sites, make observations, review records, and interview personnel.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), LR 42.

**§313. Activities/Procedures at the Completion of the On-Site Visit**

A. At the completion of the on-site visit, the team will meet to discuss, review, and analyze the team findings and to summarize their findings on LDE-issued forms. ~~An department-staff~~ LDE team member will meet with representatives of the LEA at the conclusion of the on-site visit.

B. – D. ...

E. The LEA, in collaboration with the LDE, will be required to design a corrective action plan that defines specific supports and resources that the LEA must have in order to implement the corrective action plan. The CAP must demonstrate how the LEA will:

1. correct each individual case of noncompliance; and
2. correctly implement the specific regulatory requirement.

F. – G. ...

H. If there is no responses from the LEA within the established timelines, ~~the state director of special education will, notify the state superintendent of education~~ the LDE may implement any of the corrective actions or sanctions as described in Section 107.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944.

HISTORICAL NOTE: Promulgated by the State Board of Elementary and Secondary Education, LR 30:418 (March 2004), amended LR 31:3107 (December 2005), LR 37:3218 (November 2011), LR 42.