

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

(LAC 28: CXI.321)

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 revisions to *Bulletin 118—Statewide Assessment Standards and Practices* §321. Parental Viewing of Assessments. Through House Resolution 195 of the 2015 Regular Legislative Session (HR 195), the Louisiana Legislature requested the State Board of Elementary and Secondary Education to promulgate rules relative to teacher and parental access to and review of student assessments. In response to this request, the proposed revisions establish a process for student assessment(s) to be viewed by the parent or legal custodian of a student beginning with the assessments administered to students during the 2015-2016 school year.

### Title 28 EDUCATION

#### Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

#### Chapter 3. Test Security

##### §321. Parental Viewing of Assessments

A. State assessments serve as valid and reliable measurements of students' learning of academic content and skills at the end of grade levels or courses. They provide valuable information for parents and educators in determining a student's readiness for higher-level content and the need for additional academic supports. Thus, in making assessments available for viewing by parents and supporting their involvement in their child's education, it is essential to maintain the integrity and security of the assessments to ensure that they continue to serve as valid and reliable measurements of student learning.

B. Parents and legal custodians of students taking Louisiana statewide assessments shall be granted the opportunity to view each assessment taken by their child upon request as provided in this section, with the exception of proprietary assessments used in multiple states for purposes other than state assessment, such as college admissions and college credit. The LDE may provide for standardized processes to receive and schedule assessment viewings and to maintain test security in accordance with this section.

C. The viewing shall be held not later than ten business days following the release of student-level state assessment results by the LDE to local education agencies and shall be offered for ten business days at the LDE office in Baton Rouge during normal business hours.

1. The viewing shall take place by appointment in the presence of the director of assessment or his designee.

2. In order to confirm the requestor is the parent or legal custodian of a child who took a Louisiana statewide assessment, the requestor shall present a valid form of government issued identification and the child's birth certificate or a recently issued report card containing child's name, school, district, and grade level. The LDE shall view the child's birth certificate or report card for identification purposes only and shall not maintain a copy of such documentation.

3. If a parent or legal custodian has questions or concerns regarding a particular assessment item or question, he shall be provided an opportunity at the time of the review to discuss his questions or concerns with the director of assessments or other appropriate person as determined by the director of assessments

4. The parent or legal custodian shall be given a reasonable amount of time to view the assessment; however, such time shall not exceed two hours.

5. During the review, the parent or legal custodian shall not:

- a. photocopy or photograph any assessment item or question;
- b. make any notes, including but not limited to handwritten, typed, or orally recorded notes that identify an assessment item or question;
- c. bring an electronic device into the viewing area; or
- d. discuss or disclose an assessment item or question with another child's parent or legal custodian.

6. Following the review, the parent or legal custodian shall not discuss or disclose an assessment item or question to any person.

D. A parent or legal custodian who violates the provisions of this Section shall be required to reimburse the LDE for any costs incurred by the LDE to replace any assessment items, questions, or full test forms determined by the LDE to no longer be secure due to the actions of the parent or legal custodian.

1. Replacement of assessment items or questions shall include but is not limited to:

- a. the cost of developing and field testing any items or questions; and
- b. printing revised test booklets, as needed to ensure the security of the assessment.

2. The LDE may take any steps necessary to secure collection, including referral to the attorney general for collection. If the LDE makes such referral, the attorney general shall be responsible for collection of any balance due to the state resulting from the actions of the parent or legal custodian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

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

**Person Preparing Statement:** Nancy Beben  
**Phone:** 225-342-4991  
**Division:** Policy Office  
**Rule Title:** Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

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: Nancy Beben

Date Submitted: 2/4/2016

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

Person Preparing Statement: Nancy Beben

Phone: 225-342-4991

Division: Policy Office

Rule Title: Part CXI. Bulletin 118—Statewide Assessment Standards and Practices

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: Nancy Beben  
Date Submitted: 2/4/2016

### **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., March 10, 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 2/5/16  
to LFO 2/5/16  
back from LFO 2/8/16*

Person Preparing Statement: Nancy Beben Dept.: LA Department of Education  
Board of Elementary & Secondary Education

Phone: (225) 342-4991 Office: Policy

Return Address: P. O. Box 94064 Rule Title: Part CXI. Bulletin 118—Statewide  
Baton Rouge, LA Assessment Standards and Practices

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)

House Resolution 195 of 2015 requested the State Board of Elementary and Secondary Education to promulgate rules relative to parental access to and review of assessments. In response to this request, the proposed revisions establish a process for student assessment(s) to be viewed by the parent or legal custodian of a student beginning with the assessments administered to students during the 2015-2016 school year.

The proposed policy revision could increase costs for the Department of Education; however, such increases are not likely to be significant. Increased costs could be associated with the requirement that staff meet with parents or legal custodians to view the documents and to answer questions. Parents or legal custodians are responsible for the cost to replace any items determined to be no longer secure due to their actions revealing the content. However, if the Attorney General is not able to recoup the costs from these individuals, the DOE will be required to fund replacement costs including development of new items and printing revised test booklets. These costs will likely be absorbed in the current assessment contract but to the extent this happens with recurring regularity, the cost of the state assessment contract could increase. Assessment contracts are funded with a mix of state and federal funds.

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

This policy 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)

Parents and guardians not living in Baton Rouge will incur indeterminable costs to travel to Baton Rouge to review assessments. Parents and legal custodians may be required to pay the cost of replacement of assessment items determined to be no longer secure due to actions of the parent or legal custodian.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

*Beth Scioneaux*  
Signature of Agency Head or Designee

*Evan Brasser, Staff Director*  
Legislative Fiscal Officer or Designee

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

2/5/16

RECEIVED

FEB 05 2016

Legislative Fiscal Office

2/5/16

Date of Signature

Date of Signature

RECEIVED

FEB 05 2016

Legislative Fiscal Office

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).

Through House Resolution 195 of the 2015 Regular Legislative Session (HR 195), the Louisiana Legislature requested the State Board of Elementary and Secondary Education to promulgate rules relative to teacher and parental access to and review of student assessments. In response to this request, the proposed revisions establish a process for student assessment(s) to be viewed by the parent or legal custodian of a student beginning with the assessments administered to students during the 2015-2016 school year.

- 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 were requested through House Resolution 195 of the 2015 Regular Legislative Session.

- 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.

Increases are possible, however, will likely be nominal and fall within the appropriated funding for the program.

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	FY15-16	FY16-17	FY17-18
PERSONAL SERVICES			
OPERATING EXPENSES	See Below	See Below	See Below
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
<u>MAJOR REPAIR &amp; CONSTR.</u>			
<u>POSITIONS (#)</u>			
<b>TOTAL</b>			

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 revision could increase costs for the Department of Education; however, such increases are not likely to be significant. Increased costs could be associated with the requirement that staff meet with parents or legal custodians to view the documents and to answer questions. Parents or legal custodians are responsible for the cost to replace any items determined be no longer secure due to their actions revealing the content. However, if the Attorney General is not able to recoup the costs from these individuals, the DOE will be required to fund replacement costs including development of new items and printing revised test booklets. These costs will likely be absorbed in the current assessment contract but to the extent this happens with recurring regularity, the cost of the state assessment contract could increase.

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

SOURCE	FY15-16	FY16-17	FY17-18
STATE GENERAL FUND	Increase	Increase	Increase
AGENCY SELF-GENERATED DEDICATED			
FEDERAL FUNDS	Increase	Increase	Increase
OTHER (Specify)			
<b>TOTAL</b>			

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.

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	FY15-16	FY16-17	FY17-18
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.

Parents and guardians not living in Baton Rouge will incur indeterminable costs to travel to Baton Rouge to review assessments. Parents and legal custodians may be required to pay the cost of replacement of assessment items determined to be no longer secure due to actions of the parent or legal custodian.

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 CXI. Bulletin 118—Statewide Assessment Standards and Practices**

**Chapter 3. Test Security**

**§321. Parental Viewing of Assessments**

A. State assessments serve as valid and reliable measurements of students' learning of academic content and skills at the end of grade levels or courses. They provide valuable information for parents and educators in determining a student's readiness for higher-level content and the need for additional academic supports. Thus, in making assessments available for viewing by parents and supporting their involvement in their child's education, it is essential to maintain the integrity and security of the assessments to ensure that they continue to serve as valid and reliable measurements of student learning.

B. Parents and legal custodians of students taking Louisiana statewide assessments shall be granted the opportunity to view each assessment taken by their child upon request as provided in this section, with the exception of proprietary assessments used in multiple states for purposes other than state assessment, such as college admissions and college credit. The LDE may provide for standardized processes to receive and schedule assessment viewings and to maintain test security in accordance with this section.

C. The viewing shall be held not later than ten business days following the release of student-level state assessment results by the LDE to local education agencies and shall be offered for ten business days at the LDE office in Baton Rouge during normal business hours.

1. The viewing shall take place by appointment in the presence of the director of assessment or his designee.

2. In order to confirm the requestor is the parent or legal custodian of a child who took a Louisiana statewide assessment, the requestor shall present a valid form of government issued identification and the child's birth certificate or a recently issued report card containing child's name, school, district, and grade level. The LDE shall view the child's birth certificate or report card for identification purposes only and shall not maintain a copy of such documentation.

3. If a parent or legal custodian has questions or concerns regarding a particular assessment item or question, he shall be provided an opportunity at the time of the review to discuss his questions or concerns with the director of assessments or other appropriate person as determined by the director of assessments

4. The parent or legal custodian shall be given a reasonable amount of time to view the assessment; however, such time shall not exceed two hours.

5. During the review, the parent or legal custodian shall not:

a. photocopy or photograph any assessment item or question;

b. make any notes, including but not limited to handwritten, typed, or orally recorded notes that identify an assessment item or question;

c. bring an electronic device into the viewing area; or

d. discuss or disclose an assessment item or question with another child's parent or legal custodian.

6. Following the review, the parent or legal custodian shall not discuss or disclose an assessment item or question to any person.

D. A parent or legal custodian who violates the provisions of this Section shall be required to reimburse the LDE for any costs incurred by the LDE to replace any assessment items, questions, or full test forms determined by the LDE to no longer be secure due to the actions of the parent or legal custodian.

1. Replacement of assessment items or questions shall include but is not limited to:

a. the cost of developing and field testing any items or questions; and

b. printing revised test booklets, as needed to ensure the security of the assessment.

2. The LDE may take any steps necessary to secure collection, including referral to the attorney general for collection. If the LDE makes such referral, the attorney general shall be responsible for collection of any balance due to the state resulting from the actions of the parent or legal custodian.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24.4

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42: