

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana’s IEP Handbook for Students with Exceptionalities

(LAC 28:XCVII.503 and 505)

Under the authority granted in R.S. 17:6 and 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 proposes to amend *Bulletin 1530—Louisiana’s IEP Handbook for Students with Exceptionalities*. The proposed policy revisions ensure the alternate assessment (LEAP Connect) is reserved for students with the most significant cognitive disabilities, as required by the Every Student Succeeds Act (ESSA).

Title 28

EDUCATION

Part XCVII. Bulletin 1530—Louisiana’s IEP Handbook for Students with Exceptionalities

Chapter 5. Participation in Statewide Assessments

§503. Types of Alternate Assessments

A. LEAP alternate assessment (alternate assessment), was developed for students with disabilities who are served under IDEA for whom there is evidence that the student has a significant cognitive disability. The alternate assessment LAA-1 is a performance-based assessment designed for students whose instructional program is aligned with the Louisiana Connectors standards.

B. - B.1. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 41:535 (March 2015), LR:

§505. Alternate Assessment Participation Criteria

A. LEAP Alternate Assessment (Alternate Assessment). To be eligible to participate in the LEAP Alternate Assessment (alternate assessment), the IEP team must verify the student (in grades 3-11) meets the criteria listed in this Subsection.

1. For students entering a high school cohort on or before the 2019-2020 school year, the student has a disability that significantly impacts cognitive function and/or adaptive behavior. This may be demonstrated in the following ways.

a. For students who have not completed the fifth grade, an eligible student is functioning three or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.

b. For students who have completed fifth grade, an eligible student is functioning 2.3 or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.

c. Students who have completed the fifth grade functioning between 2.0 and 2.29 or more standard deviations below the mean in cognitive functioning and/or adaptive behavior may be eligible for alternate assessment participation if the IEP team provides additional empirical evidence an alternate assessment identification is appropriate for the student.

2. For students entering a high school cohort during the 2020 – 2021 school year and beyond, the student has a disability that significantly impacts cognitive function. This may be demonstrated in the following ways.

a. For students who have not completed the fifth grade, an eligible student is functioning three or more standard deviations below the mean in cognitive functioning.

b. For students who have completed fifth grade, an eligible student is functioning 2.3 or more standard deviations below the mean in cognitive functioning.

c. Students who have completed the fifth grade functioning between 2.0 and 2.29 or more standard deviations below the mean in cognitive functioning and with deficits in adaptive behavior may be eligible for alternate assessment participation if the IEP team provides additional empirical evidence an alternate assessment identification is appropriate for the student.

3. The student requires direct individualized instruction and substantial supports to achieve measurable gains on the challenging state academic content standards for the grade in which the student is enrolled.

4. The decision to include the student in an alternate assessment is not solely based on the following:

a. student's educational placement;

b. excessive or extended absences;

c. disruptive behavior;

d. English language proficiency;

e. student's reading or academic level;

f. student's disability according to Bulletin 1508;

g. social, cultural, and/or economic differences;

h. anticipated impact on school performance scores;

i. administrative decision;

j. expectation that the student will not perform well on the LEAP 2025 or other statewide assessments; or

k. the student's previous need for accommodation(s) to participate in general state or district-wide assessments.

B. - B.4.j. Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 37:886 (March 2011), LR 41:535 (March 2015), LR 45:

Title 28

EDUCATION

Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities

Chapter 5. Participation in Statewide Assessments

§503. Types of Alternate Assessments

A. LEAP alternate assessment (alternate assessment), level 1 (LAA-1), was developed for students with disabilities who are served under IDEA for whom there is evidence that the student has a significant cognitive disability. The alternate assessment LAA-1 is a performance-based assessment designed for students whose instructional program is aligned with the Louisiana Connectors extended standards.

B. - B.1. Repealed.

~~B. LEAP alternate assessment, level 2 (LAA-2) based on modified academic achievement standards, was developed for students with persistent academic disabilities who are served under IDEA to participate in academic assessments that are sensitive to measuring progress in their learning. There is evidence the student is having significant academic difficulties in English language arts, reading and/or mathematics. LAA-2 is a criterion referenced assessment designed for students whose instructional program is aligned with the Louisiana content standards.~~

~~1. A student who meets the LAA-2 participation criteria may test in all or in one or more content areas of LAA-2, based on the determination of the IEP team. The IEP team may decide that the student will participate in the LAA-2 assessment in one or more content areas and at the same time participate in the regular statewide assessment (iLEAP/LEAP/GEE) for the remaining content areas required at the student's enrolled grade.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 41:535 (March 2015), LR:.

§505. Alternate Assessment Participation Criteria

A. LEAP Alternate Assessment (Alternate Assessment), Level 1 (LAA1) To be eligible to participate in the LEAP Alternate Assessment (alternate assessment), the IEP team must verify the student (in grades 3-11) meets the criteria listed in this Subsection.

1. For students entering a high school cohort on or before the 2019-2020 school year, the student has a disability that significantly impacts cognitive function and/or adaptive behavior. This may be demonstrated in the following ways.

a. For students who have not completed the fifth grade, an eligible student is functioning three or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.

b. For students who have completed fifth grade, an eligible student is functioning 2.3 or more standard deviations below the mean in cognitive functioning and/or adaptive behavior.

c. Students who have completed the fifth grade functioning between 2.0 and 2.29 or more standard deviations below the mean in cognitive functioning and/or adaptive behavior may be eligible for LAA-1 alternate assessment participation if the IEP team provides additional empirical evidence an LAA-1 alternate assessment identification is appropriate for the student.

2. The student requires extensive modified instruction aligned with the Louisiana extended standards to acquire, maintain, and generalize skills. For students entering a high school cohort during the 2020 – 2021 school year and beyond, the student has a disability that significantly impacts cognitive function. This may be demonstrated in the following ways.

a. For students who have not completed the fifth grade, an eligible student is functioning three or more standard deviations below the mean in cognitive functioning.

b. For students who have completed fifth grade, an eligible student is functioning 2.3 or more standard deviations below the mean in cognitive functioning.

c. Students who have completed the fifth grade functioning between 2.0 and 2.29 or more standard deviations below the mean in cognitive functioning and with deficits in adaptive behavior may be eligible for alternate assessment participation if the IEP team provides additional empirical evidence an alternate assessment identification is appropriate for the student.

3. The decision to include the student in LAA-1 is not solely based on the following: The student requires direct individualized instruction and substantial supports to achieve measurable gains on the challenging state academic content standards for the grade in which the student is enrolled.

a. ~~student's placement;~~

b. ~~excessive or extended absences;~~

e. ~~disruptive behavior;~~

d. ~~English language proficiency;~~

e. ~~student's reading level;~~

f. ~~student's disability according to Bulletin 1508;~~

g. ~~social, cultural, and/or economic differences;~~

h. ~~anticipated impact on school performance scores;~~

i. ~~administrative decision;~~

j. ~~expectation that the student will not perform well on the LEAP, iLEAP, GEE or LAA-2.~~

4. The decision to include the student in an alternate assessment is not solely based on the following:

a. student's educational placement;

b. excessive or extended absences;

c. disruptive behavior;

- d. English language proficiency;
- e. student's reading or academic level;
- f. student's disability according to Bulletin 1508;
- g. social, cultural, and/or economic differences;
- h. anticipated impact on school performance scores;
- i. administrative decision;
- j. expectation that the student will not perform well on the LEAP 2025 or other statewide assessments; or
- k. the student's previous need for accommodation(s) to participate in general state or district-wide assessments.

B. - B.4.j. Repealed.

~~B. LEAP Alternate Assessment, Level 2 (LAA 2)~~

~~1. The student scored at the Unsatisfactory level in English language arts and/or mathematics on the previous year's LEAP/iLEAP/GEE or scored Needs Improvement on the English II or English III and/or Algebra I or Geometry EOC or participated in the LAA 1 or LAA 2.~~

~~2. The student has an IEP with goals based on academic content standards for the student's enrolled grade and the student requires support to access the general education curriculum.~~

~~3. The student's progress to date, in response to appropriate instruction designed to address the student's individual needs is such that, even if significant growth occurs, the student will not achieve grade-level proficiency within the year covered by the student's IEP.~~

~~4. The decision to test a student in LAA 2 is not solely based on the following:~~

- ~~a. student's placement;~~
- ~~b. excessive or extended absences;~~
- ~~c. disruptive behavior;~~
- ~~d. English language proficiency;~~
- ~~e. student's reading level;~~
- ~~f. student's disability according to *Bulletin 1508*;~~
- ~~g. social, cultural, and/or economic differences;~~
- ~~h. anticipated impact on school performance scores;~~
- ~~i. administrative decision;~~
- ~~j. the expectation that the student will not perform well on the regular assessment (LEAP, iLEAP, GEE).~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 37:886 (March 2011), LR 41:535 (March 2015), LR 45:

**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 XCVII. Bulletin 1530—Louisiana’s IEP Handbook for Students with Exceptionalities

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: 1/9/19

**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 XCVII. Bulletin 1530—Louisiana’s IEP Handbook for Students with Exceptionalities

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: 1/9/19

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 noon, February 9, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

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
Baton Rouge, LA

Rule

Title: Part XCVII. Bulletin 1530—Louisiana's
IEP Handbook for Students with
Exceptionalities

Date Rule

Takes Effect: Upon final promulgation

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)

There may be savings to the Department of Education as a result of the reduction in the number of alternative assessments which will be administered for those students with the most significant cognitive disabilities, as required by ESSA. There will be an estimated 8 to 10% reduction in the percentage of students assessed on the alternative assessment which may result in reduced printing and shipping costs, however, there will likely be a corresponding increase in the number of LEAP tests. It is indeterminable at this time whether there will be a net reduction in administration costs.

There may be potential cost savings to local school districts and charter schools due to the anticipated reduction in the number students requiring alternative assessments which are more labor intensive to administer. Any such savings will vary across districts and are indeterminable at this time.

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

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

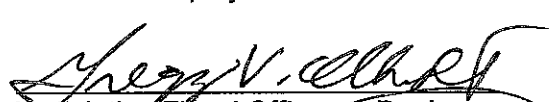
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed policy revisions will not result in costs and/or economic benefits to directly affected persons or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect of 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

1/10/19
Date of Signature

1/9/2019
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).

The proposed policy revisions ensure the alternate assessment is reserved for students with the most significant cognitive disabilities, as required by ESSA. Specifically, the revisions delete policy language allowing students to participate in the alternate assessment based on deficits in adaptive functioning alone; establish a transition period for graduation pathways of current high school and eighth grade students; incorporate language from the most recent federal regulations; and provide technical edits including references to outdated assessments and standards.

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

The Every Students Succeeds Act (ESSA) changed the statewide cap on the number of students who can be assessed with an alternate assessment from 1.0 percent of students who score proficient to 1.0 percent of students who participate. The U.S. Department of Education requires any state that exceeds the 1.0 percent participation cap to submit a waiver. As part of that waiver, Louisiana is required to review the definition of students with the most significant cognitive disabilities and, if necessary, make revisions.

- 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.

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?

There may be a savings to the Department of Education associated with the reduction in the number of alternative assessments.

COSTS	FY18-19	FY19-20	FY20-21
PERSONAL SERVICES			
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
MAJOR REPAIR & CONSTR.			
POSITIONS (#)			
TOTAL	-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.

Each year, approximately 12,500 alternate assessments are administered (5,000 each in English and Math, and 2,500 in Science). There will be an estimated 8 to 10% reduction in the percentage of students assessed on the alternative assessment which may result in reduced printing and shipping costs, however, there will likely be a corresponding increase in the number of LEAP tests; thus, it is indeterminable at this time whether there will be a net reduction in administration costs.

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

Assessment costs are funded with a mix of federal funds and dedicated funds and state general fund. Exact assessment costs and cost allocations vary each year.

SOURCE	FY18-19	FY19-20	FY20-21
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED			
FEDERAL FUNDS	-0-	-0-	-0-
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?

Yes.

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 may be potential savings to local school districts and charter schools due to the reduction in the number of alternate assessments administered. These tests are more labor intensive to administer so there could be associated workload adjustments. Any savings will vary across the districts and are indeterminable at this time.

3. 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 MFP funds, local revenues and federal funds.

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?

The proposed revisions will not impact revenue collections of state and local governmental units.

REVENUE INCREASE/DECREASE	FY18-19	FY19-20	FY20-21
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 are no anticipated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed revisions.

- 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 proposed revisions will not have an impact on competition and employment.