

NOTICE OF INTENT

Board of Elementary and Secondary Education

Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

(LAC 28:XXXIX.503, 703, 705, and 707)

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 has approved for advertisement amendments to *Bulletin 1566—Pupil Progression Policies and Procedures*: §503, Regular Placement; §505, Other Placement Requirements; §703, Retention; §705, Support for Students; and §707, Exceptions to High Stakes Policy. The proposed amendments are related to student promotion and summer remediation.

Title 28 EDUCATION

Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

Chapter 5. Placement Policies—General Requirements

§503. Regular Placement

A. - B.1.a. ...

b. any first-time eighth grade student who does not meet the passing standard set forth in §703 of this bulletin and any student not eligible for any waiver pursuant to §707 of this bulletin, after being offered summer remediation, may be placed on a high school campus in transitional ninth grade;

c. - f. ...

i. For any student who recently completed the eighth grade and is transferring into the LEA from another state or country after summer remediation, the LEA shall review the student's academic record to determine appropriate placement in ninth grade or transitional ninth grade. Such placement shall occur no later than October 1 of each school year.

B.1.f.ii. - E.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005), LR 31:3103 (December 2005), LR 33:2063 (October 2007), LR 34:2389 (November 2008), LR 36:2003 (September 2010), LR 40:765 (April 2014), LR 40:1332 (July 2014), LR 40:2533 (December 2014), LR 41:1271 (July 2015), LR 44:

Chapter 7. Promotion and Support Policy

§703. Promotion and Support Standard for Grade 8

A. Eighth grade students shall score at least at the "basic" achievement level in either English language arts or mathematics and "approaching basic" in the other subject in order to be promoted to the ninth grade. Students who do not meet the promotion standard after taking the eighth grade state assessments may be placed on a high school campus in the transitional ninth grade. For any student who recently completed the eighth grade and is transferring into the LEA from another state or country, the LEA shall review the student's academic record to determine appropriate placement in ninth grade or transitional ninth grade. Such placement shall occur no later than October 1 of each school year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2005 (September 2010), amended LR 40:766 (April 2014), LR 44:

§705. Supports for Students

A. Summer Remediation

1. LEAs shall offer, at no cost, extended, on-grade level instruction through summer remediation to students who, based on a preponderance of evidence of student learning, are considered to be academically struggling, did not take the spring LEAP tests, and failed to meet the standard set forth in §701 and §703 of this bulletin. The LEA shall provide transportation to and from the assigned LEAP remediation summer site(s) from, at a minimum, a common pick-up point.

A.2. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2005 (September 2010), amended LR 40:2533 (December 2014), LR 44:

§707. Exceptions to Promotion and Support Policy for 8th Grade Students

A. - D. ...

E. Extenuating Circumstances Waiver

1. An LEA, through its superintendent, may grant a waiver on behalf of individual students who are unable to participate in LEAP testing because of one or more of the following extenuating circumstances as verified through appropriate documentation:

E.1.a. - F.4.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2006 (September 2010), amended LR 40:2242 (November 2014), LR 44:


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 XXXIX. Bulletin 1566—Pupil Progression Policies and 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: 

Date Submitted: 3/8/10

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

Person Preparing Statement: Ryan Gremillion

Phone: 225-342-4991

Division: Policy Office

Rule Title: Part XXXIX. Bulletin 1566—Pupil Progression Policies and 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: 

Date Submitted: 3/8/18

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, April 8, 2018, 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

sent to LFO 2/15/18
received 3/8/18

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 Rule Title: Part XXXIX. Bulletin 1566—Pupil
Baton Rouge, LA Progression Policies and 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)

There is no impact to the Department of Education. The impact on the expenditures of local school districts is indeterminable. The proposed revisions provide additional flexibility to the districts in determining which students must be offered summer remediation. Current rules provide that students who do not take spring LEAP tests, or fail to meet the passing standard must be offered on-grade level instruction through summer remediation. However, districts will not receive LEAP score results before June 2018, which does not allow them sufficient time to identify and prepare summer programs for eligible students. Current policy also does not enable local school districts to consider other evidence of student learning that could aid in identifying the students who could benefit from summer remediation. The proposed change allows districts to use a preponderance of evidence of student learning to determine whether students are academically struggling, rather than solely the LEAP score. This is meant to assist districts in identifying summer school needs. While the changes could assist in more accurately projecting summer remediation needs, it could also result in districts offering summer instruction to students who subsequently pass the test, which could increase rather than decrease expenditures. Impacts will vary by district and are indeterminable at this time.

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)

Charter schools, which are also public schools, will experience impacts similar to the local school districts as a result of determining which students are eligible for, and should be offered summer remediation. Any costs or savings will vary by school and are indeterminable at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Signature of Agency Head or Designee

Evan Brasel, Staff Director
Legislative Fiscal Officer or Designee

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

3/8/18
Date of Signature

LFO 10/04

3/8/18
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).

The Louisiana Department of Education (LDE) recommends further revisions to summer remediation provisions based on school system feedback. First, the revisions, in accordance with state law, continue to offer summer remediation to students who have been identified as academically struggling, but enable LEAs to identify such students based not only on the results of state assessments, but also on a preponderance of evidence of student learning available at the end of the school year. Second, the revisions remove the requirement that a first-time eighth grade student that does not meet the eighth grade promotion standard complete summer remediation before being placed on a high school campus in transitional ninth grade.

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

As Louisiana has implemented more rigorous academic standards over the past few years, the Board of Elementary and Secondary Education (BESE) and the Louisiana Legislature have enabled Local Education Agencies (LEAs) to make decisions relative to student promotion and remediation, based on a preponderance of evidence of student learning, rather than based solely on LEAP results. Those temporary policies are set to expire beginning with the 2017-2018 school year unless further action is taken by BESE.

- 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.

Indeterminable.

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.

Funding for local school districts is funded through a mix of state MFP allocations, local revenues and federal funds. Any increase in expenditures will be funded using these means of finance.

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?

There is no impact to the Department of Education.

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

N/A

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

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?

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 could be increased costs and savings associated with the adoption of more flexible local pupil progression plans; however, impacts will vary by district and the net impact is indeterminable.

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

Funding for local school districts is funded through a mix of state MFP allocations, local revenues and federal funds. Any increase in expenditures will be funded using these means of finance.

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	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.

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.

Charter schools, which are also public schools, will experience impacts similar to the local school districts as a result of determining which students are eligible for, and should be offered summer remediation. Any costs or savings will vary by school 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.

None.

COMPARISON DOCUMENT

Title 28 EDUCATION

Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

Chapter 5. Placement Policies—General Requirements

§503. Regular Placement

A.—B.1.a.

~~b. beginning with the conclusion of the 2013-2014 school year, any first-time eighth grade student who does not meet the passing standard set forth in §701 §703 of this bulletin and any student not eligible for any waiver pursuant to §707 of this bulletin, after taking the state assessments in spring and summer completing being offered summer remediation, may be placed on a high school campus in transitional ninth grade;~~

c.—f.

~~i. Students placed in the transitional ninth grade shall participate in complete the summer remediation program offered by the LEA and the summer retest. For any student who recently completed the eighth grade and is transferring into the LEA from another state or country after summer remediation, the LEA shall review the student's academic record to determine appropriate placement in ninth grade or transitional ninth grade. Such placement shall occur no later than October 1 of each school year.~~

ii.—E.1.b.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 2000), amended LR 26:1433 (July 2000), LR 26:1576 (August 2000), LR 27:188 (February 2001), LR 27:1006 (July 2001), LR 27:1682 (October 2001), LR 29:123 (February 2003), LR 30:407 (March 2004), LR 31:1974 (August 2005), LR 31:3103 (December 2005), LR 33:2063 (October 2007), LR 34:2389 (November 2008), LR 36:2003 (September 2010), LR 40:765 (April 2014), LR 40:1332 (July 2014), LR 40:2533 (December 2014), LR 41:1271 (July 2015), LR 44:

Chapter 7. High Stakes Testing Promotion and Support Policy

§703. RetentionPromotion and Support Standard for Grade 8

~~A. The decision to retain a student in the fourth grade more than once as a result of his/her failure to achieve the passing standard on the English language arts and mathematics components of LEAP shall be made by the LEA in accordance with the local pupil progression plan.~~

~~A.B. Eighth grade students shall score at least at the "Basic" achievement level in either English language arts or mathematics and "Approaching Basic" in the other subject in order to be promoted to the ninth grade. Students who do not meet the promotion standard after taking the eighth grade state assessments in spring and summer, following the completion of summer remediation, may be placed on a high school campus in the transitional ninth grade. For any student who recently completed the eighth grade and is transferring into the LEA from another state or country after the completion of summer remediation, the LEA shall review the student's academic record to determine appropriate placement in ninth grade or transitional ninth grade. Such placement shall occur no later than October 1 of each school year.~~

~~C. LEAs shall provide a fourth grade transitional program for students meeting the minimum criteria.~~

~~1. The purpose of a fourth grade transitional program is to provide a class setting to students who have demonstrated the ability to benefit from a combination of intensive fourth grade remedial work and fifth grade regular coursework. Students in the transitional program may be able to progress to the sixth grade the following year.~~

~~2. Minimum criteria for placement into a fourth grade transitional program:~~

~~a. the student must score at the *approaching basic/approaching basic* achievement level on the English language arts and mathematics components of LEAP;~~

~~b. the student must have met all requirements for promotion from the fourth grade as outlined in the local pupil progression plan; and~~

~~c. the student must participate in both the summer remediation program offered by the LEA and the summer retest.~~

~~3. Minimum criteria for promotion to the sixth grade from a fourth grade transitional program:~~

~~a. the student must be provided remediation in the subject area(s) on which the student scored below *basic* on LEAP as well as instruction in the fifth grade curriculum;~~

~~b. the student must score a minimum of *basic/approaching basic* on English language arts and math and a minimum of *approaching basic/approaching basic* on science and social studies on the fourth grade LEAP; and~~

~~c. the student must have met all requirements for promotion from the fifth grade as outlined in the local pupil progression plan.~~

~~D. A student who has repeated the fourth grade and who is 12 years old on or before September 30 may be promoted according to the local pupil progression plan.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2005 (September 2010), amended LR 40:766 (April 2014), LR 44:

§705. Supports for Students

A. Summer Remediation

1. LEAs shall offer, at no cost, ~~a minimum of 50 hours per subject of summer remediation and retest opportunities extended, on-grade level instruction through summer remediation in English language arts and mathematics~~ to students who, ~~based on a preponderance of evidence of student learning, are considered to be academically struggling,~~ did not take the spring LEAP tests, ~~or and who failed to meet the passing standard set forth in §701 and §703 of this bulletin.~~ The LEA shall provide transportation to and from the assigned LEAP remediation summer site(s) from, at a minimum, a common pick-up point.

2. —B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2005 (September 2010), amended LR 40:2533 (December 2014), LR 44.

§707. Exceptions to High-Stakes Promotion and Support Policy for 8th Grade Students

A.—D. ...

FE. Extenuating Circumstances Waiver

1. An LEA, through its superintendent, may grant a waiver on behalf of individual students who are unable to participate in LEAP testing ~~or unable to attend LEAP summer remediation, including summer remediation required for placement in transitional ninth grade,~~ because of one or more of the following extenuating circumstances as verified through appropriate documentation:

1.a.—F.4.a ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7; R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2006 (September 2010), amended LR 40:2242 (November 2014), LR 44.