

NOTICE OF INTENT

Board of Elementary and Secondary Education

Part CXIII. Bulletin 119—Louisiana School Transportation Specifications and Procedures

(LAC 28: CXIII. 309 and 1505).

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 119—Louisiana School Transportation Specifications and Procedures* §309. Tenure and Termination of Bus Drivers; and §1505. Routes: Filling Vacancies. The proposed align policy with recently enacted legislation.

**Title 28
EDUCATION**

**Part CXIII. Bulletin 119—Louisiana School Transportation
Specifications and Procedures**

Chapter 3. Selection and Employment of School Bus Drivers and Attendants (Aides)

§309. Tenure and Termination of Bus Drivers

A. A permanent school bus operator shall not be removed from his position except upon:

1. written and signed charges of willful neglect of duty;
2. incompetence;
3. immorality;
4. intoxication while on duty;
5. failure to comply with the reporting requirements of R.S. 17:491.3 relative to being arrested for one or more specified offenses;

6. physical inability to perform duties;

7. failure to keep the school bus in a safe, comfortable, and practical operating condition; or

8. being a member of or contributing to any group, organization, movement or corporation that is prohibited by law or enjoined from operating in the state of Louisiana, and then only if furnished with a copy of such written charges and given the opportunity to respond.

B. ...

C. The procedure for removal of any permanent school bus operator shall be in accordance with R.S.17:493.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:158, 17:160-161, 17:164-166, 17:492, and 17:493.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999), amended LR 36:1468 (July 2010), LR 39:80 (January 2013), LR 44:

Chapter 15. School Bus Routes

§1505. Routes: Filling Vacancies

A. ...

1. The opportunity to change from the current assigned route to the vacant route must be offered, by mail to his/her residence, to tenured school bus operators in the order of seniority.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:158, 17:160-161, 17:164-166, 17:493, and 17:500.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1475 (July 2010), 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 CXIII. Bulletin 119—Louisiana School Transportation Specifications 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: *Ryan Gremillion*
Date Submitted: 9/6/18

**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 CXIII. Bulletin 119—Louisiana School Transportation Specifications 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: Ryan Gremillion

Date Submitted: 9/6/18

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, October 9, 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

COMPARISON DOCUMENT

Title 28 EDUCATION

Part CXIII. Bulletin 119—Louisiana School Transportation Specifications and Procedures

Chapter 3. Selection and Employment of School Bus Drivers and Attendants (Aides)

§309. Tenure and Termination of Bus Drivers

~~A. Full-time bus drivers who have served the mandatory three-year probationary period and have acquired tenure may be terminated for cause, but only in accordance with the terms of R.S. 17:493. Reasons for dismissal include A permanent school bus operator shall not be removed from his position except upon:~~

- ~~1. written and signed charges of willful neglect of duty;~~
- ~~2. incompetence;~~
- ~~3. immorality;~~
- ~~4. intoxication while on duty;~~
- ~~5. failure to comply with the reporting requirements of R.S. 17:491.3 relative to being arrested for one or more specified offenses;~~
- ~~6. physical inability to perform duties;~~
- ~~7. failure to keep the school bus in a safe, comfortable, and practical operating condition; or~~
- ~~8. being a member of or contributing to any group, organization, movement or corporation that is prohibited by law or enjoined from operating in the State of Louisiana, and then only if furnished with a copy of such written charges and given the opportunity to respond.~~

B. ...

~~C. Additionally, the abolition, discontinuance or consolidation of bus routes may require a reduction in force, or lay-off of one or more bus drivers. The procedure for removal of any permanent school bus operator prescribed shall be in accordance with R.S. 17:493 must be followed.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:158, 17:160-161, 17:164-166, 17:492, and 17:493.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999), amended LR 36:1468 (July 2010), LR 39:80 (January 2013), LR 44:

Chapter 15. School Bus Routes

§1505. Routes: Filling Vacancies

A. ...

1. The opportunity to change from the current assigned route to the vacant route must be offered, by mail to his/her residence, to tenured school bus operators in the order of seniority.

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

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:158, 17:160-161, 17:164-166, 17:493, and 17:500.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1475 (July 2010), LR 44:

Current Policy

Title 28 EDUCATION

Part CXIII. Bulletin 119—Louisiana School Transportation Specifications and Procedures

Chapter 3. Selection and Employment of School Bus Drivers and Attendants (Aides)

§309. Tenure and Termination of Bus Drivers

A. Full-time bus drivers who have served the mandatory three-year probationary period and have acquired tenure may be terminated for cause, but only in accordance with the terms of R.S. 17:493. Reasons for dismissal include willful neglect of duty; incompetence; immorality; intoxication while on duty; physical inability to perform duties; failure to keep the school bus in a safe, comfortable and practical operating condition; being a member of or contributing to any group, organization, movement or corporation that is prohibited by law or enjoined from operating in the State of Louisiana.

B. School bus operators starting employment with a school system on July 1, 2012, or thereafter are not eligible for tenure and may be removed from their position as provided by the personnel policy of the employing school board.

C. Additionally, the abolition, discontinuance or consolidation of bus routes may require a reduction in force, or lay-off of one or more bus drivers. The procedure prescribed in R.S. 17:493 must be followed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:492, and 17:493.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999), amended LR 36:1468 (July 2010), LR 39:80 (January 2013).

Chapter 15. School Bus Routes

§1505. Routes: Filling Vacancies

A. When filling school bus route vacancies for LEA-owned school buses, the procedures as outlined in R.S. 17:493.1 must be followed.

1. The opportunity to change from the current assigned route to the vacant route must be offered to tenured school bus operators in the order of seniority.

2. If no tenured operator chooses to change to the vacant route, the route shall be offered to a full-time probationary bus operator.

3. If no tenured or probationary operator chooses to change to the vacant route, a substitute bus operator shall be selected from a list of approved substitute school bus operators.

B. When filling school bus route vacancies for contracted owner-operator school buses, procedures for new owner-operator acquisition of the school bus are stipulated in R.S. 17:493.1.

1. The vacated route shall be offered first to any person meeting the requirements of the LEA who is willing to acquire the bus of the retiring operator.

2. The acquisition of the school bus by the new owner-operator must guarantee that the retiring owner-operator driver received full appraised value for the bus using regularly accepted appraisal methods to determine fair market value.

3. These requirements are applicable only when the bus owned by the retiring operator has been manufactured within a period of five years immediately prior to the operator's retirement and the operator is retiring due to a documented physical disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:158, R.S. 17:160-161, R.S. 17:164-166, R.S. 17:493, and R.S. 17:500.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1475 (July 2010).

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 CXIII. Bulletin 119—Louisiana School
Baton Rouge, LA Transportation Specifications and Procedures

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)

While there may be costs for local school districts to implement the provisions requiring public school boards to notify certain school bus operators of route vacancies by mail and to update procedures for the removal of permanent school bus operators, as required by Act 699 of 2018, these are not anticipated to be material.

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

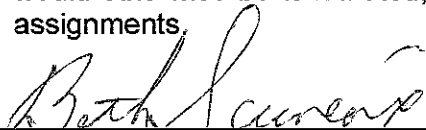
There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

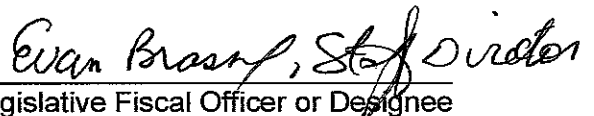
III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)

The proposed changes will benefit school bus operators by enhancing the criteria required for termination and by strengthening notification requirements of vacant routes. Actual impacts will be determined by the number of individuals affected and are indeterminable at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed changes may provide certain advantages to selected school bus operators, who would otherwise be terminated, or who would otherwise be excluded from participation in route assignments.


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

9/6/18
Date of Signature

9/7/18
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 proposed revisions require public school boards to notify certain school bus operators of route vacancies by mail and update procedures for the removal of permanent school bus operators.

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

Act 699 of the 2018 Regular Legislative Session requires public school boards to notify certain school bus operators of route vacancies by certified mail, and Act 238 provides relative to the removal of school bus operators.

These Acts necessitate an update to current policy.

- 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?

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

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?

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.

While there may be increased costs to districts to mail notices to school bus driver, these are not anticipated to be material.

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

Local school districts operating budgets utilize state funds, MFP funding, 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.

The proposed changes will benefit school bus operators by enhancing the criteria required for termination and by strengthening notification requirements of vacant routes.

- 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.

Actual impacts will be determined by the number of individuals affected and are indeterminable at this time.

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 changes may provide certain advantages to selected school bus operators, who would otherwise be terminated, or who would otherwise be excluded from participation in route assignments. Actual impacts are indeterminable at this time.