



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064 · PHONE: 225-342-5840 · FAX: 225-342-5843

September 12, 2016

MEMORANDUM

James Garvey
1st BESE District

Kira Orange Jones
2nd BESE District

Sandy Holloway
3rd BESE District

Tony Davis
4th BESE District

Gary Jones
5th BESE District

Kathy Edmonston
6th BESE District

Holly Boffy
7th BESE District

Jada Lewis
8th BESE District

Thomas Roque
Member-at-Large

Lurie Thomason
Member-at-Large

Doris Voitier
Member-at-Large

TO: Senator John A. Alario, Jr., Senate President
Representative Taylor F. Barras, Speaker of the House
Senator Dan "Blade" Morrish, Chair, Senate Committee on Education
Representative Nancy Landry, Chair, House Committee on Education

FROM: Shan N. Davis, Executive Director 
Board of Elementary and Secondary Education

RE: Summary Report on Board of Elementary and Secondary Education Proposed Rulemaking

Pursuant to R.S. 49:968(D)(1)(b), the Board of Elementary and Secondary Education hereby submits to you this summary report and announces its plan to proceed with rulemaking by finalizing the August 20, 2016, Notice of Intent that was promulgated on pages 1312 - 1314 of the *Louisiana Register*.

The Board has received no comments or requests for a public hearing and has not conducted a hearing pursuant to R.S. 49:953(A)(2)(a).

The Board has made no change to the proposed Rule.

Subject to legislative oversight by either the House Committee on Education or Senate Committee on Education, the Board anticipates adopting the Notice of Intent as a final Rule in the November 20, 2016, issue of the *Louisiana Register*.

The following document is attached:

1. A copy of the Notice of Intent.

Please contact Nina Ford at (225) 342-5841 if the Board may be of any assistance to you concerning this Rule.

SND:naf

Attachment (1)

c: Jeanne Johnston, Senior Analyst, Senate Committee on Education
Cheryl Serrett, Analyst, Senate Committee on Education
Nancy Jolly, Senior Legislative Analyst, House Committee on Education
Ryan Gremillion, Policy Director, Louisiana Department of Education
Shan N. Davis, Executive Director, BESE
Kevin Calbert, Communications Manager, BESE

Shan N. Davis
Executive Director

John C. White
State Superintendent

Act 91 of the 2016 Regular Legislative Session provides for the unification of public schools in Orleans Parish under the oversight of the Orleans Parish School Board. The proposed revisions align the process for determining the length of initial Type 3B charter terms to the process provided for in Act 91 of the 2016 Regular Legislative Session.

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 NONGOVERNMENTAL GROUPS (Summary)

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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1608#028

Evan Brasseur
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 129—The Recovery School District
Return of Schools to Local School Board
(LAC 28:CXLV.505)

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 §505, Return of Schools to Local School Board, of *Bulletin 129—The Recovery School District*. Act 91 of the 2016 Regular Legislative Session provides for the unification of public schools in Orleans Parish under the oversight of the Orleans Parish School Board. This revision adds language from Act 91 of the 2016 Regular Legislative Session that provides for specific responsibilities of BESE as it relates to the potential postponement of the unification of schools in Orleans Parish for specified reasons.

Title 28 EDUCATION

Part CXLV. Bulletin 129—The Recovery School District Chapter 5. Failed Schools

§505. Return of Schools to Local School Board

A. - B.1. ...

2. A non-failing charter school is eligible for transfer from the jurisdiction of the recovery school district provided it meets all of the following.

a. The charter school will have been under the jurisdiction of the Recovery School District for a minimum of five years. A charter school shall be considered to have been under the jurisdiction of the RSD for five years when five complete school years have passed since the approval of the transfer to the RSD by BESE under R.S. 17:10.5 or 17:10.7, regardless of changing operators or site codes for the charter school since that time. The decision to transfer will be considered at the earliest during the charter school's fifth year under the jurisdiction of the RSD, with the

proposed transfer occurring at the conclusion of that same school year.

2.b. - 4. ...

5. BESE shall only approve a charter school board request to transfer to the charter school to the jurisdiction of the local school board if the following requirements are met:

a. - b.vi.(b). ...

C. Unification of Schools Pursuant to R.S. 17:10.7.1

1. No sooner than July 1, 2018, and no later than July 1, 2019, type 5 charter schools located in Orleans Parish shall be transferred to the jurisdiction of the Orleans Parish School Board pursuant to the timelines and procedures detailed in R.S. 17:10.7.1.

2. The transfer of charter schools from the RSD to the Orleans Parish School Board pursuant to R.S. 17:10.7.1 shall occur on July 1, 2018, unless such transfer is postponed by a majority vote of the full membership of the Orleans Parish School Board or the full membership of BESE.

3. BESE or the Orleans Parish School Board may approve such postponement only if one or more of the following apply.

a. The Orleans Parish School Board is not financially stable.

b. The Orleans Parish School Board lacks a comprehensive expulsion and reentry program for students.

c. The Orleans Parish School Board cannot assure the stability of employee retirement benefits.

d. The Orleans Parish School Board cannot ensure or provide sufficient insurance coverage.

e. The superintendent for the Orleans Parish School Board and the superintendent of the RSD provide written certification that it is not feasible to meet the time lines, tasks, and benchmarks established in the plan to effect the return of schools from the Recovery School District to the jurisdiction of the Orleans Parish School Board as provided in R.S. 17:10.7.1.

f. The advisory committee created pursuant to R.S. 17:10.7.1, by a majority vote of its full membership, officially requests the Orleans Parish School Board or BESE consider such postponement.

4. Any action taken by the Orleans Parish School Board or BESE to postpone the final transfer of schools from the RSD to the Orleans Parish School Board must occur no later than January 31, 2018, and in no instance shall such postponement extend the final transfer date beyond July 1, 2019.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:10.5(A)(1), R.S. 17:10.7(A)(1), R.S. 17:1990(A)(2), R.S. 17:10.5(C), and R.S. 17:10.7(C).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:878 (March 2011), amended LR 38:354 (February 2012), LR 38:1396 (June 2012), LR 39:82 (January 2013), LR 39:1022 (April 2013), LR 39:3255 (December 2013), LR 42:551 (April 2016), LR 42:

Family Impact Statement

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.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

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 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until 4:30 p.m., September 8, 2016, to Shan N.

Davis, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 129—The Recovery School District—Return of Schools to Local School Board

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

The proposed policy revisions will have no effect on costs or savings to the state. There will be an increase in expenditures of the Orleans Parish School Board (OPSB), with a corresponding reduction in expenses of the Recovery School District (RSD) as a result of the unification of schools located in Orleans Parish. The net impact is indeterminable at this time.

Act 91 of the 2016 Regular Legislative Session provides for the unification of public schools in Orleans Parish under the oversight of the Orleans Parish School Board. This revision adds language from Act 91 of the 2016 Regular Legislative Session that provides for specific responsibilities of BESE and the Orleans Parish School Board as it relates to the timeframe for the transfer and the potential postponement of the unification of schools in Orleans Parish for specified reasons.

Currently, certain oversight and coordinating functions and responsibilities are shared by both the OPSB and the RSD. As a result of the unification, these functions and responsibilities will transfer to the OPSB including Portfolio Management, Citywide Services and Enrollment, Facilities, Local Educational Authority (LEA) Responsibilities, Family and Stakeholder Engagement, and Finance and Operations resulting in an increase in expenditures. The OPSB projects additional staffing needs and increased operating expenses as well as one-time transition expenses. However, there may be some savings realized through the combination of overlapping functions in the OPSB and the RSD. A financial analysis is ongoing and the net impact will be determined and included in the final transition plan as required by R.S. 17:10.7.1.

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

Self-generated revenues currently collected by the RSD will subsequently transfer to the OPSB to be used for the integration of administrative and oversight functions into the OPSB operations. This includes authorized fees paid by charter schools to the school board as well as set aside funding for a facilities preservation program authorized by Act 543 of 2014; there is no net change in these revenues.

MFP funding for Type 5 schools is allocated to the RSD for distribution to the schools. As a result of the transfer back to the OPSB, schools may opt to exercise the authority to operate as their own Local Education Authority as a Type 3B school. MFP funding would therefore flow directly to the schools, rather than through the OPSB.

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

There may be changes to the allocation and distribution of MFP funds to charter schools due to the requirements of the unification plan regarding participation in a parish-wide enrollment system, lottery preferences, and a district level funding allocation based on student characteristics or needs.

Such changes will be determined based on each school's enrollment and the application of such policies.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be a reduction in staffing at the RSD and an increase in staffing at the OPSB. It is unknown at this time whether the unification will result in a net increase or net decrease in employment opportunities for existing and new personnel.

Beth Scioneaux
Deputy Superintendent
1608#029

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.103 and 515)

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 139—Louisiana Child Care and Development Fund Programs*: §103, Definitions; and §515, Payments Made on Behalf of Households. Act 3 of the 2012 Regular Legislative Session required the state board with unifying the early childhood system to prepare all children for kindergarten. The proposed revisions adjust Child Care Assistance Program (CCAP) eligibility and rates for families with children with special needs so that quality child care is more accessible and affordable for such families.

**Title 28
EDUCATION**

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

**Chapter 1. Child Care Assistance Program
§103. Definitions**

Special Needs Child Care—for the purpose of CCAP daily rates, child care for a child through age has a current individualized family services plan (IFSP) or individual education plan (IEP) in accordance with the Individuals with Disabilities Education Act (IDEA). Incentive payments up to 26 percent higher than the regular rates can be allowed for a special needs child care. For children qualifying for the special needs child care rate, child care teachers shall be invited to participate in the IEP or IFSP team.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR part 98 and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2109 (October 2015), amended LR 42:42 (January 2016), LR 42:

**Chapter 5. CCAP Household Eligibility
§515. Payments Made on Behalf of Households**

A. The state maximum daily rates for CCAP care are as follows.

Child Care Provider Type	Regular Care	Regular Care for Infants/Toddlers (under age 3)	Special Needs Care Incentive	Special Needs Care Incentive for Infants/Toddlers (under age 3)
Type III Early Learning Center	\$21.50	\$22.50	\$27.00	\$28.25
School Child Care Center	\$15.00	\$16.00	\$18.75	\$20.00
Family Child Care Provider	\$15.00	\$16.00	\$18.75	\$20.00
In-Home Provider	\$14.50	\$15.50	\$18.25	\$19.50
Military Child Care Centers	\$21.50	\$22.50	\$27.00	\$28.25

B. - F.5. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR parts 98 and 99, and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015), amended LR 42:44 (January 2016), LR 42:

Family Impact Statement

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.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

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 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial security? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.