



# 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  
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2<sup>nd</sup> BESE District

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Jada Lewis  
8<sup>th</sup> 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 1314 - 1315 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

Such changes will be determined based on each schools' 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 Sefoneaux  
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**

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*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.

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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.

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 139—Louisiana Child Care and Development Fund Programs**

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

There will be an increase in Child Care Assistance Program (CCAP) payments made by the Louisiana Department of Education (LDE) to child care providers on behalf of eligible children. CCAP subsidies are funded through the federal Child Care and Development Fund. The extent of the increase is indeterminable and will depend upon the number of eligible families approved for the increased subsidy.

Act 3 of the 2012 Regular Legislative Session required the state Board of Elementary and Secondary Education (BESE) 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.

**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 a reduction in child care costs for families that qualify for the increased subsidy payment, making child care for special needs children more accessible and affordable.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

This policy will have no effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
1608#037

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 140—Louisiana Early Childhood Care and Education Network (LAC 28:XCL101, 103, 313, 503, 509-517, 521, 703-709, and 713)

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 140—Louisiana Early Childhood Care and Education Network*: §101, Purpose §103, Definitions; §313, Academic Approval for Type III Early Learning Centers; §503, Coordinated Observation Plan and Observation Requirements; §509, Performance Rating Calculations for Publicly-Funded Sites; §511 Performance Rating Calculations for Community Networks; §512, Performance Ratings for Publicly-Funded Sites; §513, Informational Metrics of Best Practices; §515, Reporting for the Accountability System; §517, Data Verification; §521, Performance Profile Appeals Procedure; §703, Coordinated Enrollment Process; §705, Implementation Timeline; §707, Demonstrated Progress Toward Implementation; §709, Community Network Request for Funding for Publicly-Funded Programs; and §713, Request for Departmental Review. Bulletin 140 is a set of regulations focused specifically on early childhood community networks, which ensure one organization within each local community network coordinates across programs, set clear expectations for implementation of coordinated enrollment as required by Act 717 of the 2014 Regular Legislative Session and establish processes to ensure fairness and equity for providers and families, and establish a unified quality and improvement system. The first year of implementation of policy contained in Bulletin 140 was a learning year and the policy itself calls for revision of policy prior to the start of the 2016-2017 year.

The proposed revisions reflect key shifts based on results from the 2015-2016 learning year. First, the proposed revisions communicate differences in quality by weighting domains equally and using a four-level scale in order to help families understand differences. Second, the proposed revisions honor quality and improvement by providing for the release of an annual honor roll that will recognize sites that are rated "excellent." Sites and networks that improve scores or ratings will also be recognized as "top gains." Third, the proposed revisions provide that sites that consistently fail to reach minimum expectations by earning