



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

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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 1315 - 1323 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

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 Scjoneaux
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:XCI.101, 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

an "unsatisfactory" rating for two years in any three-year period will lose approval and funding. Fourth, the proposed revisions provide that high scores, low scores, and concerning patterns will trigger additional third-party observations, whereby third-party scores will be used instead of local observations. Fifth, the proposed revisions add elements to reports concerning parent choice and funding decision-making, and support communities in order for local systems to continue to improve. Sixth, the proposed revisions provide that type III early learning centers shall participate in the quality rating and improvement system in order to receive or renew academic approval. Approval will be tied to performance within the accountability system for future years.

Title 28 EDUCATION

Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 1. General Provisions

§101. Purpose

A. The purpose of this bulletin is to establish the duties and responsibilities of the early childhood care and education network, local community networks, community network lead agencies, and publicly-funded early childhood care and education programs; establish performance and academic standards for kindergarten readiness; define kindergarten readiness; and create a uniform assessment and accountability system for publicly-funded early childhood care and education sites and community networks that includes a performance profile indicative of performance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:

§103. Definitions

* * *

Assurances—see *program partner assurances*.

* * *

Program Partner Assurances—assurances that early childhood care and education programs must submit to the department in order to access their public funding.

* * *

School Year—for purposes of this bulletin, July 1-June 30.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.23 and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:

Chapter 3. Early Childhood Care and Education Network

§313. Academic Approval for Type III Early Learning Centers

A. All type III early learning centers shall meet the performance and academic standards of the early childhood care and education network regarding kindergarten readiness as provided in this bulletin.

B. - C. ...

D. Initial Academic Approval for an Applicant for a New Type III Early Learning Center License for Fiscal Years 2016-2017 and Beyond

1. In order to obtain the initial academic approval required to be licensed as a type III early learning center, a center applying for a new type III license must:

a. submit a signed copy of the current program partner assurances to the department, thereby agreeing to comply with the provisions of this bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. An applicant for a new type III early learning center license who has held a type III early learning center license and received a corrective action plan as provided in §313(K)(2)(a) at any time during the current or preceding fiscal year shall not be allowed to apply for academic approval for the fiscal year in which the center received a corrective action plan and the following fiscal year.

E. Renewal of Academic Approval for Type III Early Learning Centers for the Fiscal Years 2016-2017 and 2017-2018

1. Academic approval shall be renewed annually for fiscal years 2016-2017 and 2017-2018 for any type III early learning center that:

a. has current academic approval;

b. is in compliance with the provisions of this bulletin; and

c. has submitted a signed copy of the current annual program partner assurances to the department, and is thereby agreeing to comply with the provisions of this bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Type III early learning centers shall annually submit a signed copy of the annual program partner assurances to the department prior to July 1, or as requested by the department, whichever occurs earlier.

F. Renewal of Academic Approval for Existing Type III Early Learning Centers for Fiscal Year 2018-2019 and Beyond

1. Academic approval shall be renewed annually for fiscal years 2018-2019 and beyond for any type III early learning center that:

a. has current academic approval;

b. is in compliance with the provisions of this bulletin;

c. has not had two unsatisfactory performance ratings within any consecutive three school years; and

d. has submitted a signed copy of the current annual program partner assurances to the department, and is thereby agreeing to comply with the provisions of this bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. Early learning centers shall annually submit a signed copy of annual program partner assurances to the department prior to July 1, or as requested by the department, whichever is earlier.

G. A center that has its academic approval terminated may not apply for academic approval for the fiscal year in which academic approval was terminated or the following fiscal year.

H. Academic approval shall be valid for the fiscal year, July 1-June 30, for which it is granted.

I. Academic approval is granted to a specific owner and a specific location and is not transferable. If a type III early learning center changes owners or location, it is considered a new operation, and academic approval for the new owner or location must be obtained prior to beginning operations under new ownership or at the new location.

J. Upon a change of ownership or change of location, the academic approval granted to the original owner or at the original location becomes null and void.

K. Renewal

1. Prior to July 1 of each year, the department shall send notice to each type III early learning center that has academic approval providing one of the following:

a. renewal of academic approval for the center;

b. notice of the center's failure to comply with specific requirements in Subsection A of this Section and specific corrective actions that must be taken by a specified date in order for academic approval to be renewed; or

c. if an early learning center has received the notice outlined in Subparagraph H.2.a of this Section within the academic year and the center has not provided the required certifications and completed the stated corrective actions, the department may terminate the center's academic approval as provided in Subparagraph H.2.c of this Section and send notice of termination of the center's academic approval.

L. Denial, Termination or Refusal to Renew Academic Approval

1. The department may deny terminate, or refuse to renew academic approval for:

a. violations of any provisions of this bulletin;

b. failure to timely comply with a corrective action plan provided by the department;

c. any act of fraud, such as the submission of false or altered documents or information;

d. failure to timely submit a signed copy of the annual program partner assurances; or

e. two unsatisfactory performance ratings within any consecutive three school years.

2. Notice

a. If a type III early learning center is in violation of any provision of this bulletin, the department shall notify the center in writing and may specify any corrective actions in a corrective action plan that shall be required to retain academic approval.

b. Within 30 calendar days of receiving such notice, the center shall submit certification in writing to the department that the corrective actions specified in the

corrective action plan have been taken or are in the process of being taken in compliance with the schedule provided in the corrective action plan and certification that the center will remain in compliance with the corrective action plan and all applicable regulations.

c. If the type III early learning center does not respond in a timely or satisfactory manner to the notice and corrective action plan or adhere to the implementation schedule required in the corrective action plan, the department may terminate or refuse to renew the center's academic approval.

d. The department shall provide written notice of denial, termination or refusal to renew academic approval to the center.

e. The denial, termination or refusal to renew a center's academic approval shall be effective when notice of the denial, termination, or refusal to renew is given.

M. Appeal Procedure

1. BESE shall have the authority to grant an appeal of the denial, termination or refusal to renew academic approval for a type III early learning center.

2. ...

3. A type III early learning center may request an appeal of the denial, termination, or refusal to renew its academic approval by submitting a written request for an appeal to the department within 15 calendar days of being given notice of the denial, termination, or refusal to renew its academic approval.

4. - 5. ...

6. An early learning center that appeals the termination or refusal to renew its academic approval shall retain its academic approval during the appeal process.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.36(C) and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2584 (December 2015), amended LR 42:

Chapter 5. Early Childhood Care and Education Accountability System

§503. Coordinated Observation Plan and Observation Requirements

A. - B.4.c. ...

5. The department shall monitor observer accuracy within each observation period by comparing the domain-level results from classroom observations conducted by the department's third-party contractors to the domain-level results from classroom observations conducted by the community network for each observer.

a. Within each observation period, for observations conducted by a community network observer that have been compared to domain-level results conducted by the department's third-party contractors, if more than 20 percent of the domain-level results are different by more than one point for the community network observer, that observer and lead agency shall be issued a notice in writing by the state regarding their level of accuracy.

b. Within each observation period, for observations conducted by a community network observer that have been compared to domain-level results conducted by the department's third-party contractors, if more than 33 percent of the domain-level results are different by more than one point for the community network observer, that observer

shall be shadow scored by another community network observer in the next observation period.

c. Within each observation period, for observations conducted by a community network observer that have been compared to domain-level results conducted by the department's third-party contractors, if 50 percent or more of the domain-level results are different by more than one point for the community network observer, the department may determine that the community network observer shall not be able to conduct observations for that community network for the next observation period.

i. If the observer is no longer able to conduct observations for the community network, the department shall notify the observer and the lead agency that the observer shall not be able to conduct observations for that community network for the next observation period.

ii. A lead agency or community network observer may request in writing that the department review its decision in Subparagraph 5.c of this Subsection within 15 calendar days of receiving the decision.

iii. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include all necessary supporting documentation.

iv. The department shall respond to the request for departmental review within 30 calendar days after receiving it.

v. The department may waive the action in Subparagraph 5.c of this Subsection in cases of extenuating circumstances or if the action would result in no other assessor being available to conduct required observations.

d. Observers who are receive notification from the department under Clause 5.c.i of this Subsection must meet the reliability requirements of 80 percent accuracy through annual recertification prior to being permitted to complete observations for the community network.

C. Coordinated Observation Plan

1. Each community network shall develop and maintain, no later than September 30 of each year, a written annual plan for coordinated observation using CLASS® that at a minimum includes:

a. - d.ii. ...

iii. the community network conducts inter-rater reliability observation checks for 10 percent of all classrooms observed during the fall observation period and for 10 percent of all classrooms observed during the spring observation period, and that these reliability observation checks include every observer for the community network at least once annually; and

C.1.d.iv. - D.3. ...

E. The department shall publicly release the reliability requirements for third-party contractors hired by the department annually.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015), amended LR 42:

§509. Performance Rating Calculations for Publicly-Funded Sites

A. The performance rating for each publicly-funded site shall be based on the average of the dimension-level toddler and PreK observation results from the fall and spring

observation periods for all toddler and PreK classrooms within the site, excluding the negative climate dimension.

1. BESE may include a weight for improvement beginning with the 2016-2017 school year.

2. Sites that have classrooms that receive a score of 3.5 or above for the negative climate dimension shall receive a notice in writing at the end of the observation period in which they received that score. If a site receives a notice for two consecutive observation periods, an indicator of high negative climate may be reported on the performance profile.

B. Any classroom in a publicly-funded site that does not have the observations required in LAC 28:XCI.503 or does not have all results reported, shall have third-party scores for that classroom reported when available. If no third-party scores are available for that classroom, but there are observation scores for comparable classrooms within the site as required in LAC 28:XCI.503, the department shall assign the average domain score for the comparable classrooms to each missing CLASS® score. The department may assign a score of 1 to each missing CLASS® domain score if no comparable local or third-party scores are available. If this occurs, the score of 1 for missing or not-reported observation results shall be included in the performance rating calculation for that site. In these circumstances, the number of missing or not-reported observation results shall be reported on the performance profile.

B.1. - C.2. ...

a. For the 2015-2016 learning year, if the observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

b. Beginning with the 2016-2017 school year, if observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

D. The performance rating for each site shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 4.50-5.99—proficient;
3. 3.0-4.49—approaching proficient;
4. 1.0-2.99—unsatisfactory.

E. - G ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), amended LR 42:

§511. Performance Rating Calculations for Community Networks

A. Community networks shall receive two performance ratings which shall be calculated as follows.

1. CLASS® observation results shall be one of the community network performance ratings.

2. An equitable access score for four-year-olds shall be one of the community network performance ratings.

3. BESE may include a weight for improvement on equitable access beginning with the 2017-2018 school year.

B. The CLASS® observation results shall be determined by averaging the results of all fall and spring dimension-level toddler and PreK observation results for all toddler and PreK classrooms within the community network excluding negative climate.

1. Any classroom in a site that does not have the observations required in LAC 28:XCI.503, or has not had all observation results reported, shall have third-party scores for that classroom reported when available. If no third-party scores are available for that classroom, but there are observation scores for comparable classrooms within that site as required in LAC 28:XCI.503, the department shall assign the average domain score for the comparable classrooms to each missing CLASS® domain score. The department may assign a score of 1 to each missing CLASS® domain score if no comparable local or third-party score is available. If this occurs, the score of 1 for missing observation or not-reported results shall be included in the performance rating calculation for the community network. In these circumstances the number of missing or not-reported observation results shall be reported on the community network's performance profile.

I.a. - 2.b.i. ...

ii. For every year after the 2015-2016 school year, if the observation results conducted by a community network are consistently different by more than one point from observation results conducted by the department's third-party contractor, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractor for that site, including those results that do not differ by at least one point.

C. The equitable access score performance rating shall be determined by calculating the access achieved by the community network for all at-risk four-year-old children in the community network coverage area. Points are earned on a four-level rating scale according to: ←Should this say "the following".

Percentage of At-Risk Four-Year-Olds Served	Rating
90-100 percent	Excellent
80-89.99 percent	Proficient
70-79.99 percent	Approaching Proficient
0-69.99 percent	Unsatisfactory

D. The CLASS® observation results performance rating for each community network shall be based on the following numerical scale:

1. 6.0-7.0—excellent;
2. 4.5-5.99—proficient;
3. 3.0-4.49—approaching proficient;
4. 1.0-2.99—unsatisfactory.

E. - G ...

H. Prior to the start of the 2017-2018 school year, a workgroup of Early Childhood Care and Education Advisory Council members shall be formed to study the inclusion of

additional metrics in the performance rating calculations and review R.S. 17:407.21 et seq., for potential statutory changes, and shall make recommendations regarding the use of any additional performance rating calculation metrics in LAC 28:XCI.509.D.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:

§512. Performance Ratings for Publicly-Funded Sites

A. Unsatisfactory Publicly-Funded Sites

1. Beginning with the 2016-2017 school year, publicly-funded sites rated as "unsatisfactory," as defined in LAC 28:XCI.509, for two school years in any consecutive three school year period, shall lose their public funding and have their academic approval terminated.

2. The state superintendent may grant exception to Subsection A of this Section if the publicly-funded site serves a special population, or if taking the required action in Subsection A of this Section would create an extraordinary burden for families or place children at risk of harm.

3. The department shall conduct an annual needs analysis for families in regions that may be impacted by publicly-funded sites losing their public funding to support access to early childhood programs.

B. Rewards and Recognition

1. Beginning in the 2016-2017 school year, sites and community networks that are rated "excellent" shall be included in an annual honor roll published by the department and be eligible for financial rewards, as funds are available and as determined by the department.

2. No later than the 2017-2018 school year, sites and community networks that demonstrate significant improvement in their overall score or rating shall be labeled "top gains" on their performance profile and be eligible for financial rewards, as funds are available and as determined by the department.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:

§513. Informational Metrics of Best Practices

A. Informational metrics are measures of a publicly-funded site and a community network's use of the following early childhood care and education best practices. The performance profile shall report the publicly-funded site and community network's use of the best practices identified as investment in quality measures, which shall include, but is not limited to:

1. teacher/child ratios. Publicly-funded sites maintain teacher/child ratios based on the age of children that are at or better than the minimum standards required in BESE Bulletin 137—Louisiana Early Learning Center Licensing Regulations:

a. to achieve gold-level ratios, publicly-funded sites use the following teacher/child ratios and group sizes;

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:4	8
2 years to 3 years	1:6	12
3 years to 4 years	1:8	16
4 years to 5 years	1:10	20

b. to achieve silver-level ratios, publicly-funded sites use the following teacher/child ratios and group sizes;

Age	Teacher/Child Ratio	Maximum Group Size
Birth to 1 year	1:4	8
1 year to 2 years	1:6	12
2 years to 3 years	1:8	16
3 years to 4 years	1:10	20
4 years to 5 years	1:12	24

c. to achieve bronze-level ratios, publicly-funded sites use the minimum ratio standards required in BESE *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*;

2. teacher preparation. Publicly-funded sites ensure lead teachers meet or exceed credential requirements for publicly-funded classrooms provided in BESE *Bulletin 746—Louisiana Standards for State Certification of School Personnel*;

3. standards-based curriculum. Publicly-funded sites use a curriculum that is aligned to BESE *Bulletin 136—The Louisiana Standards for Early Childhood Care and Education Programs Serving Children Birth-Five Years*.

B. The performance profile may report informational metrics in the following categories:

1. child assessment that informs instruction;
2. investment in quality measures;
3. family engagement and supports; and
4. community network supports (reported at the community network level only):

a. the number of children served in new publicly-funded early childhood seats;

b. the percent of publicly-funded early childhood seats that are filled.

C. Each year and in collaboration with the Early Childhood Care and Education Advisory Council, the department shall review the results of the accountability system, including but not limited to the performance of programs on each domain of the CLASS®, how the performance profile ratings are calculated, and the observer reliability substitution rates, and recommend any improvements for this bulletin. To develop these recommendations, the department shall work collaboratively with the Early Childhood Care and Education Advisory Council, which shall establish a workgroup for this purpose. The department, with assent shown by vote of the Advisory Council, can decide in a given year that no review is needed.

D. Contingent on available funding, the department shall conduct an external implementation evaluation of Louisiana's early childhood care and education network to answer questions that include but are not limited to whether the system:

1. is based on performance ratings that are valid and reliable;
2. meaningfully differentiates between levels of program quality; and
3. delivers a robust set of quality improvement supports and incentives for improvement, as well as consequences for failure to improve. The results of the study shall be shared with the Early Childhood Care and Education Advisory Council and BESE.

E.1. The LDE is required to collect data designed to strengthen the state's ability to track and monitor implementation of new and ongoing policies and supports, program quality, and child outcomes, positioning Louisiana to:

a. provide targeted supports to teachers, programs, and schools; and

b. be evaluation-ready when funds and evaluators become available.

2. The LDE shall explore critical data elements being collected by other states, seek recommendations from the Early Childhood Advisory Council on critical data elements and present a report on the findings to BESE no later than January 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:

§515. Reporting for the Accountability System

A. Lead agencies shall report to the department, in the manner specified by the department, the following:

1. classroom counts:

a. by October 1, the number of classrooms serving infant, toddler and PreK children in each publicly-funded site on October 1;

b. by February 1, the number of classrooms serving infant, toddler, and PreK children in each publicly-funded site on February 1; and

c. by February 1, the number of classrooms in the February 1 count that have been added or removed since the October 1 count;

A.2. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2589 (December 2015), amended LR 42:

§517. Data Verification

A. The department shall provide all non-survey data contributing to the performance profile for publicly-funded sites and community networks to each lead agency prior to publishing the performance rating.

B. In 2015-2016, the department shall provide lead agencies 30 calendar days for final review, correction, and verification of data for the performance profiles. For all subsequent years, the department shall provide lead agencies 10 calendar days for final review, correction, and verification of data for performance profiles.

1. The lead agency shall create and implement a community network data certification procedure that requires review of all performance profile data for each site during the data certification period.

2. The department may request the certification procedure from each lead agency.

3. Data corrections shall not be grounds for an appeal or waiver request as all data corrections shall be made prior to the release of profiles regardless of the source of any errors.

4. Data corrections may only be submitted for the following reasons:

a. CLASS® observations results have been reported incorrectly; or

b. CLASS® observation results were not reported.

5. The department shall review all data corrections and grant approval of those corrections that are proven valid.

6. The department may request additional documentation to support the validity of the changes.

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 42:

§521. Performance Profile Appeals Procedure

A. BESE shall have the authority to grant an appeal of a publicly-funded site or community network's performance profile.

B. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting publicly-funded sites and community networks or when needed to address issues that arise when the literal application of the accountability system regulations does not consider certain unforeseen and unusual circumstances. Failure to complete observations or use of third-party scores are not sufficient reasons for requesting an appeal. Data corrections shall not be grounds for an appeal or waiver request as all data corrections shall be made prior to the release of profiles regardless of the source of any errors.

C. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2590 (December 2015), amended LR 42:

Chapter 7. Coordinated Enrollment

§703. Coordinated Enrollment Process

A. - B.4. ...

C. In collaboration with representatives of providers of child care, Head Start, and prekindergarten services, the lead agency shall develop policies and procedures for how the requirements of Subsection B of this Section will be implemented. These policies and procedures shall be submitted to the department prior to initiation of the enrollment process, and shall include training for providers and parents on the eligibility criteria for different programs, the matching process for the network, and the complaint process for providers and parents as needed.

D. - F. ...

G. Request for Departmental Review

1. Any parent or caregiver may request that the department review the placement of his or her child resulting from the coordinated enrollment process.

2. A request for departmental review shall be submitted in writing to the department within 30 calendar days of placement of the child or of the event upon which the request for review is based.

3. All requests for departmental review shall clearly state the specific reasons for requesting the review and the action being sought, and shall include all necessary supporting documentation.

4. The department shall respond to the request for departmental review within 30 calendar days after receiving it.

5. Written notice of the process in outlined in Paragraph 2 of this Subsection, as well of the complaint

process described in LAC 28:XCL311.A-F, and the appropriate contact information for the department, shall be made available to any parent or caregiver.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2591 (December 2015), amended LR 42:

§705. Implementation Timeline

A. - D.

E. Prior to the start of the school year, BESE shall review this Chapter and revise as necessary based on learnings from the previous year. A work group of the Early Childhood Care and Education Advisory Council shall be formed to study the effectiveness of the coordinated enrollment process and make recommendations to the council and BESE for changes for implementation in the following school year. This research may include, but not be limited to, defining key indicators of effectiveness, conducting focus groups of all provider types, reviewing data on the placement of new early childhood seats opened statewide, and reviewing other available information. The department, with assent shown by vote of the Advisory Council, may decide in a given year that no review is needed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:

§707. Demonstrated Progress toward Implementation

A. ...

B. The department may require community networks to complete an enrollment self-assessment each year. This self-assessment shall include, but is not limited to, the outcomes of the prior year's coordinated enrollment process, specifically how family choice resulted in these outcomes.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:

§709. Community Network Request for Funding for Publicly-Funded Programs

A. By December 1 of each fiscal year, the lead agency shall develop, in collaboration with representatives of providers of child care, Head Start, and prekindergarten services, and submit a funding request for the following fiscal year to the department on behalf of the community network that is based on the coordinated enrollment results, which shall include the following:

1. the number of applications received for each age of at-risk children;

2. the number of seats requested at each publicly-funded site;

3. the number of seats recommended by the lead agency to receive funding with a prioritization by site and age of children served by funding source;

4. the criteria and process used to develop the community network request;

5. the recommended plan to maximize all funding sources to increase service to at-risk children;

6. the number of seats being requested in a mixed delivery setting; and

7. the number of eligible children served in the network by specific program type.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2592 (December 2015), amended LR 42:

§713. Request for Departmental Review

A. Any publicly-funded program may request that the department review an enrollment decision or funding request of its lead agency or local enrollment coordinator. All programs shall be given written notice of the opportunity to request a departmental review of a lead agency or local enrollment coordinator's enrollment decision or funding request, as well as the complaint process described in LAC 28:XCL311.A-F, and the appropriate contact information for the department.

B. A request for departmental review shall be submitted in writing to the department no later than 30 calendar days after the day on which community networks must submit funding requests to the department or the day in which the community network submitted the funding request to the department, whichever is later.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq., and R.S. 17:407.91 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2593 (December 2015), amended 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 140—Louisiana Early Childhood Care and Education Network

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

The proposed policy revisions may result in an increase in expenditures by the Louisiana Department of Education (LDE), as well as for local school districts acting as the Community Network lead agency. Early childhood program activities are funded from multiple sources including federal Child Care and Development Funds (CCDF), federal IDEA funds, state general funds, as well as local funding and other available resources.

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, sets clear expectations for implementation of coordinated enrollment as required by Act 717 of the 2014 Regular Legislative Session, establishes processes to ensure fairness and equity for providers and families, and establishes a unified quality and improvement accountability system. The first year of policy implementation contained in Bulletin 140 was a learning year and the policy itself calls for revisions prior to the start of the 2016-2017 year. The proposed revisions reflect key shifts based on results from the 2015-2016 learning year, primarily associated with academic approval for Type III Early Learning Centers, and the accountability system, including coordinated observation plan requirements and performance rating calculations for publicly funded sites and Networks. Potential cost increases for the LDE are primarily associated with external evaluations of the performance rating system, program quality and improvement supports and/or sanctions. Additionally, the policy offers financial rewards to sites which receive certain ratings or demonstrate improvement in overall performance scores, subject to available funding. Furthermore, local school districts may incur increased costs associated with the additional observations necessary under the coordinated observation plan requirements as well as training required as part of the coordinated enrollment process.

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

The proposed changes could result in a loss of revenue for local school districts serving as the Community Network lead agency and/or operating publicly-funded sites if they should become ineligible to receive funding from LDE for early childhood care due to poor performance ratings. Those sites and networks which demonstrate significant improvement in their performance ratings, or achieve a rating of "Excellent", may be eligible for financial rewards, subject to availability of funding for such incentives.

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

The proposed changes could result in a loss of funding for those early learning centers for which Academic Approval has been denied, terminated or not renewed as a result of a failure to comply with the annual program partner assurances, achieve satisfactory performance ratings, or otherwise violate the provisions of the bulletin. Under such circumstances, centers would be ineligible to receive funding for early childhood care from the LDE until such time the issues are rectified and the license has been reinstated. Furthermore, child care centers and individuals which are not licensed are not eligible to participate in the state's School Readiness Tax Credit program. Conversely, sites and networks that demonstrate significant improvements in their overall performance rating and those rated "Excellent" may be eligible for financial rewards; to the extent funding is available.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1608#038

Evan Brasseur
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.1103, 2307, 2318, 2907, 3309, and 3701)

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 (BESE) approved for advertisement to revise Part CXV, *Bulletin 741—Louisiana Handbook for School Administrators*: §1103, Compulsory Attendance; §2307, Literacy Screening; §2318, The TOPS University Diploma; §2907, Connections Process; §3309, Curriculum; and §3701, Abbreviations/Acronyms. In March 2010, BESE approved a proposal submitted by the Louisiana Department of Education (LDE) that required all public schools with kindergarten through third grade enrollment to administer the *Dynamic Indicators of Basic Early Literacy Skills, 7th Edition (DIBELS Next)* as the approved kindergarten through third grade reading assessment.

In August 2013, BESE amended the March 2010 *DIBELS Next* requirement that all public schools with a kindergarten through third grade enrollment, or some variation thereof, administer the *DIBELS Next* reading assessment, to include a condition requiring *DIBELS Next*, unless the LDE approved an alternate reading assessment in lieu of *DIBELS Next* through a waiver, submitted by the local education agency (LEA).

The proposed revisions add to the list of accepted kindergarten through third grade literacy assessments, those alternate reading assessments that have been consistently requested by LEAs in waiver applications approved by BESE since 2013. The proposed revisions will reduce the number of waiver requests for kindergarten through third grade alternate reading assessments. The revisions also update the name of the high school equivalency assessment from the general educational development (GED) test to *HiSET*®.

Title 28
EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 11. Student Services

§1103. Compulsory Attendance

- A. - B.4.a. ...
- b. achieved a passing score on *HiSET*® exam; and
- B.4.c. - N. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112, R.S. 17:221.3-4, R.S. 17:226.1, and R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:641 (April 2009), LR 35:1097 (June 2009), LR 35:1475 (August 2009), LR 36:482 (March 2010), LR 36:1224 (June 2010), LR 37:1126 (April 2011), LR 37:2132 (July 2011), LR 38:1000 (April 2012), LR 38:1225 (May 2012),