




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

December 12, 2017

MEMORANDUM

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 November 20, 2017, Notice of Intent that was promulgated on pages 2230 - 2232 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 February 20, 2018, 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

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

Shan N. Davis
Executive Director

John C. White
State Superintendent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.903)

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*: §903, Participation in LA Pathways. The proposed revisions update qualifications for the school readiness tax credit for eligible child care staff.

Title 28

EDUCATION

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

Chapter 9. Louisiana Pathways Early Learning Center Career Development System (LA Pathways)

§903. Participation in LA Pathways

A.1. - B.8.e.i. ...

C. Requirements for the Administrator Track for LA Pathways beginning January 1, 2018.

1. Director I

a. Training and education requirements:

i. CDA credential, early childhood ancillary certificate, or approved early childhood diploma; and

a.ii. - b.i. ...

2. Director II

a. Training and education requirements:

i. CDA credential, early childhood ancillary certificate, or approved early childhood diploma; and

a.ii. - b.i. ...

3. Director III

a. Training and education requirements:

i. ...

ii. early childhood ancillary certificate or approved early childhood diploma and administrator certificate;

iii. - D. 11.c.i. ...

E. Requirements for the Classroom Track for LA Pathways beginning January 1, 2018

1. - 3.a.iv. ...

4. Early Learning Center Teacher III

a. Training and education requirements:

i. - iii. ...

iv. related bachelor's degree with three college courses in early childhood or child development; or

v. classified as early learning center teacher I or above by LA Pathways as of December 31, 2017 and demonstrated evidence of eligibility for the staff school readiness tax credit for at least one prior year beginning with 2017.

5. Early Learning Center Teacher IV

a. Training and education requirements:

i. ...

ii. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers; or

iii. classified as early learning center teacher I or above by LA Pathways as of December 31, 2016 and demonstrated evidence of eligibility for the staff school readiness tax credit in 2017.

6. - 6.a.ii. ...

F. Requirements for the Classroom Track for LA Pathways beginning January 1, 2019

1. - 3.a.iv. ...

4. Early Learning Center Teacher III

a. Training and education requirements:

i. - iv. ...

v. early childhood ancillary certificate and demonstrated evidence of eligibility for the staff school readiness tax credit for at least one prior year beginning with 2017.

5. Early Learning Center Teacher IV

a. Training and education requirements:

i. ...

ii. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers; or

iii. early childhood ancillary certificate and demonstrated evidence of eligibility for the staff school readiness tax credit for at least two prior years beginning with 2017.

6. - 6.a.ii. ...

G. Qualification for the School Readiness Tax Credit for Early Learning Center Directors and Staff

1. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the credit.

2. Early Learning Center Director Levels

a. Directors who are classified as director I by LA Pathways are classified as meeting level I qualifications for purposes of this credit.

b. Directors who are classified as director II by LA Pathways are classified as meeting level II qualifications for purposes of this credit.

c. Directors who are classified as director III by LA Pathways are classified as meeting level III qualifications for purposes of this credit.

d. Directors who are classified as director IV by LA Pathways are classified as meeting level IV qualifications for purposes of this credit.

3. Early Learning Center Staff Levels

a. Staff members who are classified as early learning center teacher I by LA Pathways are classified as meeting level I requirements for purposes of this credit.

b. Staff members who are classified as early learning center teacher II by LA Pathways are classified as meeting level II requirements for purposes of this credit.

c. Staff members who are classified as early learning center teacher III by LA Pathways are classified as meeting level III requirements for purposes of this credit.

d. Staff members who are classified as early learning center teacher IV or early learning center master teacher by LA Pathways are classified as meeting level IV requirements for purposes of this credit.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2119 (October 2015), amended LR 42:46 (January 2016), LR 44:

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 12 p.m., December 9, 2017, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. 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

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 are no anticipated costs to the Department of Education (LDE) to implement the proposed revisions. However, there will be a cost to the state in the form of a reduction in the state general fund from state income tax collections due to the increase in the number of recipients eligible for the tax credit.

School Readiness Tax Credits (SRTC) were authorized in 2007 to promote kindergarten readiness in eligible early childhood learning centers and are based on the quality rating of the facility which the child attends. The credits, which are refundable or may be carried forward, are awarded to individual taxpayers, child care providers, businesses which support child care expenses and resource and referral agencies, and eligible directors and child care staff. The law establishes the amount of the credit based on the Quality Rating of child care facilities, denoted by a rating of one to five stars. Individual taxpayers (families) earn credits of 50% to 200% of the state child care tax credit based on their income levels. Provider credits are based on the average monthly census of children in the CCAP program and/or who are in foster care or in the custody of the Department of Children and Family Services; credit amounts range from \$750 to \$1,500 per CCAP child. Business credits range from 5% to 20% of eligible expenses with a one-to-one credit for donations to resource and referral agencies, (not to exceed \$5,000). Finally, child care directors and teachers are eligible based on educational credentials and experience; credit amounts range from \$1,500 to \$3,000 (adjusted annually by the Consumer Price Index).

The revisions provide relative to requirements for the Administrator and Classroom Tracks for LA Pathways beginning January 1, 2018. Specifically, the revisions provide for an Early Childhood Ancillary Certificate to count towards the training and education requirements for individuals on the Administrative Track for LA Pathways. Also, individuals classified as Early Learning Center Teacher 1 or above by LA Pathways as of December 31, 2017 and who have demonstrated

evidence of eligibility for the Staff School Readiness Tax Credit for at least one prior year beginning in 2017 will be deemed to have met training and education requirements for the Classroom Track for LA Pathways.

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

There will be a reduction in the state general fund from state income tax collections due to the proposed revisions. The changes in staff qualifications may initially result in an increase in the number of individuals eligible for the credit. However, continuation of high turnover rates in child care center staff will likely result in little or no net increase in credits awarded for calendar year 2018 (FY19). Changes in qualifications for some teachers, which are effective in calendar years 2019 and 2020, may serve to stabilize turnover by making more teachers eligible for the credit (in FY20 and FY21). Based on analysis of the professional registry and workforce trends, the LDE estimates the anticipated fiscal impact to be zero in FY 19 and less than \$5 M annually for FY 20 and FY 21. Ultimately, privacy laws prevent the DOR from sharing certain taxpayer information, so actual impacts cannot be quantified. Furthermore, factors other than the SRTC credit influence provider, business, and individuals' behavior, which can't be projected, but which will affect their eligibility, credit amounts, and application for the credit.

Historically, School Readiness Tax Credits have been used as both a Maintenance of Effort (MOE) and State Match for the purpose of drawing down federal Child Care Development Funds (CCDF) of approximately \$80 M annually. While significant reductions in the award amount of SRTC could negatively impact the state's ability to match these federal funds, an increase in the credits awarded would have no impact on federal funds.

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

There will be a benefit for those individuals meeting the training and education requirements for the Administrator and Classroom tracks for LA Pathways.

There are no mandatory costs as a result of the proposed revisions but may encourage child care programs to improve adult-child interactions and instruction in their classrooms to earn the economic benefits of tax credits. Economic benefits for programs, directors, businesses, and families will only be realized if programs increase classroom quality as recognized under the Unified Quality Rating System. Finally, research demonstrates that children who participate in high quality early childhood programs are more likely to graduate high school and have post-secondary success, thus increasing their overall lifetime earnings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The LDE hopes that the proposed policy revisions will encourage all publicly-funded early learning centers that serve children from birth to age five to improve classroom interactions and instruction, thus ensuring those children receive higher quality care and education that prepares them for kindergarten. There should not be any additional effect on competition as the unified rating system is already in effect. More significantly, these policy revisions are intended to have a positive impact on the child-care workforce, which is a low wage workforce. Specifically, they should help increase retention of highly-qualified child care teachers by encouraging their continued employment within the sector. This is anticipated to decrease the current annual turnover rates for lead-teachers within child care, which currently average around 40% a year. This will likely result in more stability and higher quality services for children, while reducing the turnover costs for child-care businesses. Costs of turnover include but are not

limited to purchasing new criminal background checks, conducting interviews and references, and providing orientation and training.

Beth Scioneaux
Deputy Superintendent
1711#039

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators (LAC 28: CXV.333 and 2318)

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 741—Louisiana Handbook for School Administrators*: §333, Instructional Time; and §2318, The TOPS University Diploma. The proposed revisions pertain to waivers of required instructional minutes for schools that temporarily shared facilities, each holding school for part of the school day, due to the impact of a declared natural disaster or emergency. The proposed revisions also ensure that, for spring 2018, the decision to include English I, English II, algebra I, and geometry LEAP 2025 assessment scores as a percentage of student final grades shall be determined by local education agencies (LEAs) and shall be outlined in the pupil progression plan.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 3. Operation and Administration
§333. Instructional Time**

A. Each LEA shall adopt a calendar that includes a school year that is in accordance with applicable state regulations and includes a minimum of 63,720 minutes of instructional time.

1. Effective for the 2016-2017 school year and thereafter, the provisions of Subsection A of this Section shall not apply to any city, parish, or other public school that cannot meet minimum instructional time requirements because the school temporarily shared facilities with another school due to damages caused by a natural disaster or emergency that was declared by the governor pursuant to *Revised Statute 29:724*, certified by the state superintendent of education, and approved by BESE.

a. BESE may require that the school provide a minimum number of daily instructional minutes that is less than the requirements set forth in Subsection A of this Section and provide other requirements deemed necessary to support student learning.

b. The governing authority of any such school shall submit to the state superintendent for certification, no later than 60 days prior to the end of the school year or within 30 days of the gubernatorial declaration, whichever occurs first, and using a template provided by the LDE, documented information explaining why the school is not able to meet the required instructional minutes, any efforts made by the school toward meeting the requirements, and a revised school calendar for the affected school year. The state