



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

October 10, 2016

MEMORANDUM

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3rd BESE District

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4th BESE District

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Member-at-Large

Lurie Thomason
Member-at-Large

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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 September 20, 2016, Notice of Intent that was promulgated on pages 1542 - 1543 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 December 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

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

~~This policy will have no effect on competition and employment.~~

~~Beth Scioneaux
Deputy Superintendent
1609#043~~

~~Evan Brasseaux
Staff Director
Legislative Fiscal Office~~

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for
School Administrators—TOPS University Diploma
(LAC 28: CXV.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 (BESE) approved for advertisement to revise *Part CXV, Bulletin 741—Louisiana Handbook for School Administrators*: §2318, The TOPS University Diploma. In accordance with Act 303 of the 2016 Regular Legislative Session, the proposed revisions provide for a student with a disability, as defined in Bulletin 1706, who is no longer enrolled in public schools and who previously failed to receive a high school diploma or was denied graduation solely for failing to meet the exit examination requirements to petition the local school board to determine if the student is eligible to receive a high school diploma. The deadline for petition is December 31, 2017.

Title 28

EDUCATION

**Part CXV. Bulletin 741—Louisiana Handbook for
School Administrators**

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

A. - C.6.a.vi. ...

D. Exceptions for Certain Students with Exceptionalities

1. A person who is no longer enrolled in a public school but was identified as a student with an exceptionality as defined in R.S. 17:1942(B), except a gifted or talented student, and who previously failed to receive a high school diploma or was denied graduation solely for failing to meet the exit examination requirements pursuant to state Board of Elementary and Secondary Education rules, regulations, or policy may petition the applicable city, parish, or other local public school board to determine eligibility to receive a high school diploma pursuant to this Subsection.

2. Petitions made pursuant to this Subsection shall be submitted to the local school board by no later than December 31, 2017.

3. A person receiving a diploma pursuant to this Section shall not be counted as a graduate in any graduation rate calculations for affected schools and districts, including calculations for any prior year. A petition shall be submitted to the local school board by December 31, 2017.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7, R.S. 17:24.4, R.S. 17:183.2, and R.S. 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December

2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 41:2126 (October 2015), LR 42:232 (February 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 hundred 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? No.

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., October 9, 2016, to Shan N. Davis, Board of Elementary and Secondary Education, 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 741—Louisiana Handbook for
School Administrators—TOPS University Diploma**

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

There will be no impact to the state department of education or local school districts as a result of the proposed policy revisions.

In accordance with Act 303 of the 2016 Regular Legislative Session, the proposed revisions provide for a student with a disability, as defined in Bulletin 1706, who is no longer enrolled in public schools and who previously failed to receive a high school diploma or was denied graduation solely for failing to meet the exit examination requirements to petition the local school board to determine if the student is eligible to receive a high school diploma. The deadline for petition is December 31, 2017.

**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)**

Students with disabilities who did not receive a high school diploma may benefit from these revisions, to the extent they are awarded a diploma which could qualify them for employment for which they would otherwise be ineligible.

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

This policy will have no effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1609#044

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

**Bulletin 1706—Regulations for Implementation of the
Children with Exceptionalities Act
(LAC 28: XLIII.540 and 543)**

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 revisions to *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act: §540. Definitions, and §543. Restriction on the Use of Seclusion or Physical Restraint.* Act 522 of the 2016 Regular Legislative Session requires that local education agency (LEA) guidelines and procedures regarding seclusion and restraints be provided to the Louisiana Department of Education (LDOE) and posted on each school and LEA website. LEAs must also use the Special Education Reporting (SER) System for reporting incidents and all instances must be reported at least monthly. The proposed revisions align current policy with Act 522 of the 2016 Regular Legislative Session.

**Title 28
EDUCATION**

**Part XLIII. Bulletin 1706—Regulations for
Implementation of the Children with Exceptionalities Act
Chapter 5. Procedural Safeguards**

Subchapter C. Seclusion and Physical Restraint

§540. Definitions

A. - A.3.b.i. ...

ii. momentary blocking of a student's action if said action is likely to result in harm to the student or any other person.

3.b.iii. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:7(5)(b) and 17:416.21.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1006 (April 2012), amended LR 42:

**§543. Restrictions on the Use of Seclusion or Physical
Restraint**

A. - H. ...

I. If a student is involved in five incidents in a single school year involving the use of physical restraint or seclusion, the student's individualized education plan team shall review and revise the student's behavior intervention plan to include any appropriate and necessary behavioral supports. Thereafter, if the student's challenging behavior continues or escalates requiring repeated use of seclusion or physical restraint practices, the special education director or his designee shall review the student's plans at least once every three weeks.

J. The governing authority of each public elementary and secondary school shall adopt written guidelines and procedures regarding:

1. reporting requirements and follow-up procedures;
2. notification requirements for school officials and a student's parent or other legal guardian; and