



# 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

February 9, 2018

## MEMORANDUM

**James Garvey**  
1<sup>st</sup> BESE District

**Kira Orange Jones**  
2<sup>nd</sup> BESE District

**Sandy Holloway**  
3<sup>rd</sup> BESE District

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4<sup>th</sup> BESE District

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6<sup>th</sup> BESE District

**Holly Boffy**  
7<sup>th</sup> BESE District


**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 January 20, 2018, Notice of Intent that was promulgated on pages 108 - 110 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 April 20, 2018, issue of the *Louisiana Register*.

The following document is attached:

1. A copy of the Notice of Intent.

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

SND:slr

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

# Notices of Intent

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.103, 511, 512, 515, and 519)

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 amend *Bulletin 139—Louisiana Child Care and Development Fund Programs*: §103, Definitions; §511, Household Certification Period; §512, Redetermination of Household Certification for Non-Categorically Eligible Households; §515, Payments Made on Behalf of Households; and §519, Termination or Refusal of Renewal of Household Certification and Ineligibility Periods for Households. The proposed revisions ensure that the childcare assistance program is federally compliant while meeting the needs of low-income, working 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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*Back Scans*—attendance scans by head of household or household designee utilizing tracking of time services (TOTS) point-of-service machine (POS) or interactive voice response (IVR) that are made at a time other than the actual times of arrival and departure of the child.

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*Excessive Back Scans*—four or more back scans in a seven consecutive day period or ten or more back scans in one calendar month.

*Excessive Unexplained Absences*—six or more unexplained absences from the child care provider during any certification month.

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*Head of Household*—an individual who is over the age of 18 or under the age of 18 and emancipated by law with whom the child customarily resides more than half the time. The head of household is either the child's parent or an adult household member with primary responsibility for the child's financial support and care, if the parent is not living in the home or is living in the home but is under age 18 and not emancipated by law, or is disabled and is unable to care for himself and his child(ren).

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*Unexplained Absence*—an absence for which the head of household has not provided verbal or written notification to the provider or the department about the absence.

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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 42:1870 (November 2016), LR 43:1279 (July 2017), LR 44:

#### Chapter 5. CCAP Household Eligibility

#### §511. Household Certification Period

A. Eligible households may be certified for up to 24 months except as provided in Subsection B of this Section.

B. Households relying on the exception to eligibility requirements for parents and persons acting as parents who are experiencing homelessness, as provided in §509.A.5.b, and that have the 20-hours-per-week employment and training requirement waived, may be certified for up to one year.

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 42:44 (January 2016), amended LR 42:2176 (December 2016), LR 44:

#### §512. Redetermination of Household Certification for Non-Categorically Eligible Households

A. A redetermination of eligibility for child care services shall be made prior to the expiration of certification period, but no sooner than 12 months following the initial determination or most recent redetermination.

B. Graduated Phase-Out. At the time of redetermination, households whose income has risen above the initial state threshold for eligibility but remain below the federal threshold for eligibility of 85 percent of state medium income, shall be eligible for 12 additional months of child care services as part of a graduated phase-out.

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 44:

#### §515. Payments Made on Behalf of Households

A. - F.5. ...

G. Registration Fees. Payments for registration fees will be made to providers on behalf of all households once per certification period. Allowable registration fees are based on the amount recorded in the provider certification agreement or the current market rate, whichever is lower.

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 42:1870 (November 2016), LR 44:

#### §519. Termination or Refusal of Renewal of Household Certification and Ineligibility Periods for Households

A. The department may terminate or refuse renewal of a household's certification and impose a period of ineligibility on the household for program violations, which include but are not limited to the following acts by a member of the household:

1. - 4. ...

5. excessive unexplained absences;
6. excessive back scanning.

B. - C. ...

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 42:45 (January 2016), amended 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 noon, February 8, 2018, 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 will be an indeterminable impact to Department of Education (LDE) expenditures of federal Child Care Development Funds (CCDF) as a result of the proposed changes to the Child Care Assistance Program (CCAP). The net impact of cost increases and potential reductions in the program are indeterminable.

The revised definitions provide clarity on the practices often investigated by federal and state auditors, and are used by quality specialists to assess the integrity of the Child Care Assistance Program. These changes expand the type of violations that may result in a termination of certification, or a period of ineligibility for providers. This could result in a reduction in program expenditures if participant enrollment is not shifted to an alternate provider.

Further, the revisions relative to redetermination of eligibility for child care services, procedures for graduated phased out, and procedures for processing payments for registration fees are proposed. These changes extend the graduated phase-out period for participant eligibility from two months to twelve months. Additionally, in accordance with federal guidelines, the LDE is required to pay reasonable mandatory fees that providers charge to private paying parents. These changes will increase participant subsidy payments, and the cost of the program.

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

There is no estimated effect on revenue collections of state or local governmental units. These changes do not impact the state allocation of federal Child Care Development Funds which has not been increased; therefore any new expenditure

obligations will have to be offset by spending reductions to other program expenses.

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

There will be an indeterminable impact to child care providers who participate in the CCAP program and to families who are recipients of CCAP subsidies. To the extent providers are determined to be in violation of guidelines as defined in the proposed changes, there could be a reduction in payments. The payment of registration fees by LDE will benefit parents who are currently assessed these fees by providers. Furthermore, in order to accommodate the increase in program costs, the LDE has instituted a wait list as cases are closed naturally, reducing the number of available slots and the number of children that will be served.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

To the extent providers are determined to be in violation of program guidelines, and are permanently or temporarily terminated from participation, other providers may see an increase in enrollment. Furthermore, provider employment needs will shift based on participation and enrollment, impacting existing and prospective employees in the child care industry.

Beth Scioneaux  
Executive Director  
1801#069

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.305 and 311)

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 the amendment of *Bulletin 746—Louisiana Standards for State Certification of School Personnel*: §305, Professional Level Certificates; and §311, World Language Certificate (WLC) PK-12. Proposed revisions allow the LDE to accept evaluations of foreign credentials from any agency that follows the evaluation standards promulgated by the American Association of Collegiate Registrars and Admissions Officers (AACRAO).

**Title 28**

**EDUCATION**

**Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel**  
**Chapter 3. Teaching Authorizations and Certifications**

**Subchapter A. Standard Teaching Authorizations**  
**§305. Professional Level Certificates**

A. - A.1.c.i.(a). ...

(b). credentials may be submitted to a credentialing agency that follows the standards of the American Association of Collegiate Registrars and Admissions Officers (AACRAO) for evaluation. The original course-by-course evaluation must be submitted directly from the agency on "safe script" paper and must include a statement verifying the comparability of the baccalaureate degree in the field of education.

A.1.d. - E.4. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1797 (October 2006), amended LR 33:433 (March 2007), LR 34:233 (February 2008), LR 34:1611 (August 2008), LR 35:222 (February 2009), LR 37:358 (February 2011), LR 38:1951 (August 2012), LR 40:279 (February 2014), LR 41:2128 (October 2015), LR 43:1304 (July 2017), LR 44:

**§311. World Language Certificate (WLC) PK-12**

A. - B. ...

C. Eligibility guidelines:

1. a bachelor's degree in education or equivalent preparation in education from a foreign country. The status of this degree will be determined by the LDE. If LDE staff cannot make a degree equivalent determination, the candidate's credentials must be evaluated by a credentialing agency that follows the standards of the American Association of Collegiate Registrars and Admissions Officers (AACRAO). The original course-by-course evaluation for certification must come directly from the evaluating agency on "safe script" paper and must include a course-by-course evaluation;

C.2. - E. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, and R.S. 17:411.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 32:1800 (October 2006), amended LR 33:1618 (August 2007), LR 34:233 (February 2008), LR 35:642 (April 2009), LR 36:486 (March 2010), LR 38:1952 (August 2012), LR 40:280 (February 2014), LR 43:1307 (July 2017), LR 44:

**Family Impact Statement**

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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