



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
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

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7th BESE District


Jada Lewis
8th 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 111 - 114 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

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 746—Louisiana Standards for State Certification of School Personnel

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

The proposed policy revisions relative to teacher credentialing agencies will have no effect on costs or savings to the Department of Education or local school districts. The

changes will allow the Department of Education (LDE) to accept evaluations of foreign credentials from any agency that follows evaluation standards promulgated by the American Association of Collegiate Registrars and Admissions Officers (AACRAO).

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 an indeterminable impact to teachers seeking to obtain credentials/documentation to present to the LDE. Credential evaluations are not free and the cost varies across evaluation service providers and the complexity of the case and the amount of documentation provided. The expanded list of Credentials Evaluators provides individuals with more options for selecting a provider.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1801#070

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Advisory Councils; Minimum Foundation Program;
Rulemaking (LAC 28:1.503, 1107, and 1303)

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 Part I, BESE/8(g) Operations, Subpart 1, Board of Elementary and Secondary Education: §503, Advisory Councils; §1107, Minimum Foundation Program; and §1303, Rulemaking. As part of regular compliance and management activities, a review of the BESE code was conducted to identify any needed updates, technical edits, and revisions as a result of changes in practice/procedure, legislation, or other regulations. The proposed revisions clarify that proxies designated by persons serving on an advisory council shall not retain voting privileges and adjust agenda timelines; update the Minimum Foundation Program (MFP) membership definition related to the at-risk student count to ensure alignment with state law; and make technical updates to current policy.

Title 28

EDUCATION

Part I. BESE/8(g) Operations

Chapter 5. Organization

§503. Advisory Councils

A. -F.4. ...

5. Proxy. Any person serving on an advisory council who cannot attend a scheduled meeting may designate a person to attend as that member's proxy if the appointing authority does not object. To receive reimbursement for travel and other expenses, a proxy must be properly designated by the active member and recorded in the minutes as being present. If the proxy is representing an advisory council member who is prohibited by board policy

from receiving reimbursement for travel expenses, the proxy is likewise prohibited from receiving reimbursement.

F.6. - G.2. ...

3. Agendas of council meetings shall be distributed to council members by the board staff at least 7 days in advance of a meeting, calendar permitting. All council meetings shall be conducted in accordance with the Louisiana open meetings law (R.S. 42:11). In the event that no items have been referred by the board to an advisory council for consideration, there are no items pending on an advisory council agenda, and the LDE has no items to bring forward to the advisory council at least 10 days prior to a scheduled meeting, the meeting shall be cancelled and the members shall be notified of the cancellation.

4. - 8. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:6(A)(15), R.S. 17:24.4, and R.S. 17:11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008), amended LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2140 (July 2011), LR 38:772 (March 2012), LR 38:3152 (December 2012), LR 39:3263 (December 2013), LR 42:563 (April 2016), LR 44:

Chapter 11. Finance and Property

§1107. Minimum Foundation Program

A. - A.1.b. ...

2. Local Responsibility

a. It shall be the responsibility of city, parish, or other local school systems; recovery school district schools; and LSU and Southern Lab schools to submit to the LDE in a timely manner all necessary and required information for the computation of an individual allocation from the minimum foundation formula. This information shall be submitted to the LDE in the form required by the LDE. It shall also be the responsibility of all city, parish, or other local school systems; recovery school district schools; and LSU and Southern Lab schools to follow all circulars issued by the LDE providing instructions for the preparation of the required data and other instructions regarding the computation of an allotment from the formula.

B. - C. ...

1. **Definition.** For state reporting for public education for the purpose of establishing the base student count for state funding, city, parish, or other local school systems; approved charter schools; recovery school district schools; LSU and Southern Lab schools; Office of Juvenile Justice schools; New Orleans Center for Creative Arts (NOCCA); and Louisiana School for Math, Science, and the Arts (LSMSA) shall adhere to the following:

C.1.a. - C.b.x. ...

D. MFP—Add-on Students/Units

1. **Required Data.** For purposes of establishing the data sets used in determining the add-on students/units, the following will be adhered to.

a. Low income and English language learner student count, also referred to as economically disadvantaged, shall be determined by the number of students with the following characteristics:

- i. is eligible for Louisiana's food assistance program for low-income families;
- ii. is eligible for Louisiana's disaster food assistance program;

iii. is eligible for Louisiana's program for assistance to needy families with children to assist parents in becoming self-sufficient;

iv. is eligible for Louisiana's healthcare program for families and individuals with limited financial resources;

v. is eligible for reduced price meals based on the latest available data;

vi. is an English language learner;

vii. is identified as homeless or migrant pursuant to the McKinney-Vento Homeless Children and Youth Assistance Act and the Migrant Education Program within the Elementary and Secondary Education Act;

viii. is incarcerated with the Office of Juvenile Justice or in an adult facility;

ix. has been placed into custody of the state.

b. Career and technical education unit count shall be determined by the number of secondary career and technical education courses per student as reported by the school districts through the Louisiana education accountability data system (LEADS) for the prior year.

c. Special Education—other exceptionalities student count shall be determined by the number of special education students identified as having "other exceptionalities" in the special education reporting (SER) database as of the student count date(s) including:

i. infants and toddlers ages 0-2, who have a current individual family service plan (IFSP) and are currently receiving services; and

ii. both public and nonpublic special education students ages 3-21 identified as having a disability, as defined by R.S. 17:1943, who have a current individual education plan (IEP) and are currently receiving services from any local public school system or school. (Students serviced by SSD #1 and certain correctional facilities are excluded.)

d. Special Education—gifted and talented student count shall be determined by the number of special education students in the SER database as of the student count date(s), which includes both public and nonpublic special education students ages 3-21, identified as gifted and talented, as defined by R.S. 17:1943, who have a current IEP and are currently receiving services from any local public school system or school.

e. Economy of scale student count shall be determined by the number of students in the base student membership count as defined in LAC 28:I.1107.C.1.

AUTHORITY NOTE: Promulgated in accordance with Art. VIII §13 and R.S. 17:7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008), amended LR 37:1142 (April 2011), LR 37:3219 (November 2011), LR 38:1404 (June, 2012), LR 38:3155 (December 2012), LR 39:3266 (December 2013), LR 44:

Chapter 13. Regulatory Documents

§1303. Rulemaking

A. - C.1. ...

2. Following approval of a proposed Rule to be advertised as a Notice of Intent:

a. The appropriate LDE/BESE staff is requested to submit proposed policy language, a Family Impact Statement, a Poverty Statement, a Small Business Statement, a Provider Impact Statement, a Public Comments paragraph,

a Fiscal and Economic Impact Statement (FEIS), and comparison language (if applicable) to the board recorder for processing.

b. ...

c. After the FEIS is approved by the LFO, the board recorder prepares the Notice of Intent in compliance with statutory specifications and submits it to the *Louisiana Register* for publication. A report regarding the Rule is also submitted to the appropriate legislative committees.

2.d. - 3. ...

D. Due to the board meeting schedule, the FEIS approval process, and the *Louisiana Register* deadlines, the entire process takes a minimum of five months to complete.

E. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008), amended LR 37:3220 (November 2011), LR 38:3156 (December 2012), LR 39:3267 (December 2013), 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 one 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? 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: Advisory Councils; Minimum Foundation Program; Rulemaking

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

There may be increased costs in the Minimum Foundation Program (MFP) as a result of the expanded definition of "economically disadvantaged" used to determine the number of students eligible for a weighted student count. While such increases are indeterminable at this time, the Department of Education (LDE) does not expect a significant increase in the number of students defined as economically disadvantaged under the new definition. Further, any such increases potentially could be offset by other factors in the MFP calculations. Other revisions are technical in nature and have no fiscal implications.

The MFP formula determines allocations for city, parish, and other public school systems and schools. The formula recognizes special characteristics or needs which are assigned a

numerical value referred to as a weight. Currently, the Low Income and English Language Learner weight of 22% is defined as students who qualify for free or reduced meals under the U.S. Department of Agriculture School Food Service Program Guidelines. Act 136 of 2017 created a definition for "economically disadvantaged" students as determined by multiple eligibility criteria other than participation in the federal school lunch program for use in determining teacher evaluations and requirements for enrollment of at-risk students in certain charter schools. The proposed rule change adopts these definitions for use in the MFP.

Under the provisions of the National School Lunch Program children may be determined categorically eligible through participation in certain Federal Assistance Programs, which are included in the new definition (Supplemental Nutrition Assistance Program, Temporary Assistance to Needy Families, and status as a homeless, migrant, or foster child). It is unknown whether all eligible students currently participate and are weighted accordingly in the MFP. However, the proposed definition also includes criteria which do not categorically qualify students under federal regulations, (eligibility for disaster food assistance, eligibility for state healthcare programs, and incarceration with the Office of Juvenile Justice). It is unknown the extent to which additional students will meet these proposed criteria and qualify for the additional weights in future MFP calculations. However, as an example, as a result of flooding in the state in 2016, an additional 419,000 individuals were awarded disaster food assistance; assuming 1% of those were children in public schools would have increased the number of at-risk students by over 4,100; requiring approximately \$3.6 M in additional state and local funding.

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

To the extent the expanded definition results in an increase in the number of students identified as economically disadvantaged, districts will receive additional funding for those students in their annual MFP allocations.

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

Students who meet the definition of economically disadvantaged should benefit from additional instructional resources and programs, which will be provided as a result of the additional revenues generated to the districts through the MFP.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1801#071

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Board of Regents
Office of Student Financial Assistance**

**Scholarship/Grant Programs—TOPS Core Curriculum
(LAC 28:IV.703)**

The Louisiana Board of Regents announces its intention to amend its scholarship/grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking adds Korean as an equivalent to foreign language in the TOPS Core Curriculum beginning with 2018 graduates. (SG18180NT)

**Title 28
EDUCATION**

**Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs
Chapter 7. Taylor Opportunity Program for Students (TOPS) Opportunity, Performance, and Honors Awards**

§703. Establishing Eligibility

A. A.5.a.ii.(d).(iii). ...
* * *

(e). For students graduating in academic year (high school) 2017-2018 and after, for purposes of satisfying the requirements of §703.A.5.a.i above, or §803.A.6.a, the following courses shall be considered equivalent to the identified core courses and may be substituted to satisfy corresponding core courses.

Core Curriculum Course(s)	Equivalent (Substitute) Course
Algebra I, Geometry and Algebra II	Integrated Mathematics I, II and III
Art	Media Arts I-IV; Photography I, Photography II, and Digital Photography
Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A
Algebra III; Advanced Math- Functions and Statistics, Advanced Math-Pre-Calculus, Pre-Calculus, or Math Methods I IB (Mathematical Studies SL); Calculus, AP Calculus AB, or Math Methods II IB (Mathematics SL); AP Calculus BC; Probability and Statistics or AP Statistics; IB Further Mathematics HL; IB Mathematics HL	AP Computer Science A
Biology II	Human Anatomy and Physiology
Western Civilization, European History or AP European History; World Geography, AP Human Geography, or IB Geography; World History, AP World History, or World History IB; History of Religion; IB Economics Economics, AP Macroeconomics AP Microeconomics	AP Psychology
Foreign Language, both units in the same language, which may include: AP Chinese Language and Culture, AP French Language and Culture, AP German Language and Culture, AP Italian Language and Culture, AP Japanese Language and Culture, AP Latin, AP Spanish Language and Culture, French IV IB,	Mandarin Chinese I, II, III, IV Hindi I, II, III, IV Portuguese I, II, III, IV Vietnamese I, II, III, IV Korean I, II, III, IV