



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

November 13, 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

Holly Boffy
7th BESE District

Jada Lewis
8th BESE District

Thomas Roque
Member-at-Large

Lurie Thomason
Member-at-Large

Doris Voittier
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 October 20, 2018, Notice of Intent that was promulgated on pages 1916-1918 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 January 20, 2019, 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

Department of Children and Family Services Division of Child Welfare

Criminal Background and State Central Registry Checks;
State Repository, Central Registry
and Administrative Appeal
(LAC 67:I.203 and 67:V.1103, 1105 and 1111)

In accordance with the provisions of the Administrative Procedure Act, R.S. 49:953(A), the Department of Children and Family Services (DCFS) proposes to amend LAC 67:I.203; and LAC 67:V.1103, 1105 and 1111. The amendment updates the effective date for the implementation for certain provisions related to an administrative appeal when DCFS intends to justify/validate individuals for their involvement as a perpetrator of child abuse and/or neglect.

The full text of this Notice of Intent can be found in the Emergency Rule section of this *Louisiana Register*.

Family Impact Statement

The proposed rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through November 26, 2018, to Rhenda Hodnett, Assistant Secretary of Child Welfare, Department of Children and Family Services, P. O. Box 3318, Baton Rouge, LA 70821.

Public Hearing

A public hearing on the proposed Rule will be held on November 26, 2018, at DCFS, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 10 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For assistance, call (225) 342-4120 (voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Criminal Background and State Central Registry Checks; State Repository, Central Registry and Administrative Appeal

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

The proposed rule change is anticipated to increase expenditures for the Department of Children and Family Services (DCFS) by approximately \$3,941 in FY 19 for the publication of the proposed rule. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

In July 2018, an emergency rule was published that delayed the implementation of provisions related to administrative appeals for childcare workers that have a valid finding of a report of child abuse or neglect in the State Central Registry. The emergency rule delayed implementation of these provisions from July 1, 2018 to August 1, 2018.

This proposed rule change updates the rules to reflect the delayed timeline that was established by the emergency rule.

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

Implementation of the proposed rule 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)

Implementation of this proposed rule will have no cost or economic benefit to directly affected persons or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule has no known effect on competition and employment.

Rhenda Hodnett
Assistant Secretary
1810#046

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 119—Louisiana School Transportation
Specifications and Procedures—Termination of Bus Drivers
and Filling Vacancies (LAC 28:CXIII.309 and 1505)

Under the authority granted in R.S. 17:6 and 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 proposes to amend *Bulletin 119—Louisiana School Transportation Specifications and Procedures*. The proposed amendments align policy with recently-enacted legislation from Act 699 of the 2018 Regular Session of the Legislature, which requires public school boards to notify certain school bus

operators of route vacancies by mail and to update procedures for the removal of permanent school bus operators.

**Title 28
EDUCATION**

**Part CXIII. Bulletin 119—Louisiana School
Transportation Specifications and Procedures**

**Chapter 3. Selection and Employment of School Bus
Drivers and Attendants (Aides)**

§309. Tenure and Termination of Bus Drivers

A. A permanent school bus operator will not be removed from his position except upon:

1. written and signed charges of willful neglect of duty;
2. incompetence;
3. immorality;
4. intoxication while on duty;
5. failure to comply with the reporting requirements of R.S. 17:491.3 relative to being arrested for one or more specified offenses;
6. physical inability to perform duties;
7. failure to keep the school bus in a safe, comfortable, and practical operating condition; or
8. being a member of or contributing to any group, organization, movement or corporation that is prohibited by law or enjoined from operating in the state of Louisiana, and then only if furnished with a copy of such written charges and given the opportunity to respond.

B. ...

C. The procedure for removal of any permanent school bus operator shall be in accordance with R.S. 17:493.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:158, 17:160-161, 17:164-166, 17:492, and 17:493.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:630 (April 1999), amended LR 36:1468 (July 2010), LR 39:80 (January 2013), LR 45:

Chapter 15. School Bus Routes

§1505. Routes: Filling Vacancies

A. ...

1. The opportunity to change from the current assigned route to the vacant route must be offered, by mail to his/her residence, to tenured school bus operators in the order of seniority.

A.2. - B.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:158, 17:160-161, 17:164-166, 17:493, and 17:500.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:633 (April 1999), amended LR 36:1475 (July 2010), LR 45:

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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. 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. (noon), November 9, 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 119—Louisiana School
Transportation Specifications and Procedures—
Termination of Bus Drivers and Filling Vacancies**

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

While there may be costs for local school districts to implement the provisions requiring public school boards to notify certain school bus operators of route vacancies by mail and to update procedures for the removal of permanent school bus operators, as required by Act 699 of 2018, these are not anticipated to be material.

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

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

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

The proposed changes will benefit school bus operators by enhancing the criteria required for termination and by strengthening notification requirements of vacant routes. Actual impacts will be determined by the number of individuals affected and are indeterminable at this time.

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

The proposed changes may provide certain advantages to selected school bus operators, who would otherwise be terminated, or who would otherwise be excluded from participation in route assignments.

Beth Scioneaux
Deputy Superintendent
1810#042

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 135—Health and Safety—Immunizations
(LAC 28:CLVII.303)

Under the authority granted in R.S. 17:6 and 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 proposes to amend *Bulletin 135—Health and Safety*. The proposed amendments are being made to align the rules with Act 196 of the 2018 Regular Legislative Session, requiring students who are entering the eleventh grade, or who are 16 years old and entering any grade, to provide satisfactory evidence of current immunization against meningococcal disease as a condition of school entry.

**Title 28
EDUCATION**

Part CLVII. Bulletin 135—Health and Safety

Chapter 3. Health

§303. Immunizations

A. - G2. ...

3. A student who is 11 years old and is entering a grade other than the sixth grade and a student who is 16 years old and is entering a grade other than eleventh grade must provide satisfactory evidence of current immunization against meningococcal disease as a condition of entry into such grade at any school in the state.

4. Each student who is 11 years old and each student who is 16 years old and is participating in an approved home study program pursuant to R.S. 17:236.1 must provide satisfactory evidence of current immunization against meningococcal disease to BESE, as required.

G5. - H2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:170, 17:170.2, and 17:170.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1029 (April 2013), amended LR 45:

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.