



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
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2nd BESE District

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3rd BESE District

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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 October 20, 2018, Notice of Intent that was promulgated on pages 1919-1922 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 Galbert, Communications Manager, BESE

Shan N. Davis
Executive Director

John C. White
State Superintendent

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 135—Health and Safety—Immunizations

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

The proposed revisions require students who are entering the eleventh grade, or who are 16 and entering any grade, to provide satisfactory evidence of current immunization against meningococcal disease as a condition of school entry, to align with Act 196 of the 2018 Regular Legislative Session.

The proposed revisions will not have a fiscal impact to state or local governmental units.

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)

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed policy revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux
Deputy Superintendent
1810#040

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Operation and Administration; and Curriculum and Instruction (LAC 28: CXV.339, 349, 2305, 2307, 2317 and 2361)

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 741—Louisiana Handbook for School Administrators*. The proposed revisions align state policy with Acts of the 2018 Regular Legislative Session by: updating terminology; requiring instruction in high schools pertaining to shaken baby syndrome; recognizing high school graduates who meet certain academic criteria relative to world language proficiency; updating school crisis management and response plans; consideration of gifted evaluations and additional services; updating rules pertaining to substance abuse prevention; requiring local education authorities (LEAs) to develop plans addressing the potential for violence and terrorism in schools; requiring LEAs to adopt policies addressing student internet and online site use and indecent or hostile behavior; and uncoupling AP physics I and II for the purposes of earning credit for the TOPS program.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

**Chapter 3. Operation and Administration
§339. Emergency Planning and Procedures**

A. - G. ...

H. The school will establish procedures that detail the roles and responsibilities of each school employee and the relevant coordination agreements, services, and security measures of a school and provide for parent or parental notification in the event of a shooting or other violent incident or emergency situation.

I. The governing authority of each public school will, as part of its school crisis management plan, develop resources, policies, procedures, and guidelines to address the potential of violence and terrorism in the schools under its jurisdiction.

J. The local superintendent or chief charter school officer may dismiss any or all schools due to emergency

situations, including any actual or imminent threat to public health or safety which may result in loss of life, disease, or injury; an actual or imminent threat of natural disaster, force majeure, or catastrophe which may result in loss of life, injury or damage to property; and, when an emergency situation has been declared by the governor, the state health officer, or the governing authority of the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:154.1, and 17:416.16.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1262 (June 2005), amended LR 39:3258 (December 2013), LR 41:372 (February 2015), LR 45:

§349. Complaint Procedures

A. ...

B. The following definitions apply to this Section.

Applicable Program—any of the following ESEA programs for which the LDE has submitted a consolidated state plan or consolidated state application under the ESEA, which may include:

a. - c. ...

d. title I, part D (prevention and intervention programs for children and youth who are neglected, delinquent, or economically disadvantaged);

e. - n. ...

C. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 20 USC 6320, 7883(a), and 7844(a)(3)(C), and 34 CFR 106.8(b) and 299.11-299.12.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 33:1613 (August 2007), amended LR 39:2198 (August 2013), LR 45:

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2305. Ancillary Areas of Instruction

A. - F.3. ...

4. Such programs will integrate an evidence-based, age-appropriate instructional component on opioid substance abuse prevention.

a. Any instruction relative to alcohol, tobacco, drug, and substance abuse prevention and education provided pursuant to this Subsection will include the information that mixing opioids and alcohol can cause accidental death.

G. - K.1.b. ...

L. Each public high school will provide instruction in the recognition and prevention of shaken baby syndrome. Such instruction shall be integrated into an existing course of study.

1. For purposes of this Subsection:

Shaken Baby Syndrome—the condition known also as "abusive head trauma" that is characterized by injuries resulting from violent shaking or shaking and impacting of the head of an infant or small child.

M. Each LEA will adopt policies regarding access by students to internet and online sites that contain or make reference to harmful, violent, pervasively vulgar material, obscene material, child pornography, or sexually harassing material conducive to the creation of a hostile or dangerous school environment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:81, 17:154, 17:261 et seq., 17:263, 17:270, 17:280, 17:281 et seq., 17:404, and 17:405 et seq., and 36 USC 106.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1288 (June 2005), amended LR 33:2353 (November 2007), LR 39:2214 (August 2013), LR 39:3259 (December 2013), LR 40:2531 (December 2014), LR 44:1443 (August 2018), LR 45:

§2307. Literacy Screening

A. ...

1. Each second grade and third grade student administered a literacy screening will be identified as reading below, at, or above grade level. Second and third grade students scoring above grade level will be considered for evaluation into a gifted program. Students scoring below grade level shall be considered for additional resources.

2. For students with significant hearing or visual impairment, nonverbal students, or students with significant cognitive impairment, the LEA will provide an alternate assessment recommended by the LDE.

3. Each LEA will report to the LDE screening results by child within the timeframes and according to the guidance established by the LDE.

4. For grades 1-3, the school should use the prior year's latest screening level to begin appropriate intervention until the new screening level is determined.

5. Screening should be used to guide instruction and intervention.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 38:1224 (May 2012), LR 39:2214 (August 2013), LR 42:1878 (November 2016), LR 45

§2317. High Schools

A. - J.2.b. ...

c. has demonstrated proficiency at the intermediate-high level or above in one or more languages other than English through one of the following methods:

i. passing a world language advanced placement examination or a world language International baccalaureate examination with a score determined by the department, in consultation with the examination provider, to be indicative of language proficiency;

(a). Repealed.

ii. completion of a four-year high school course of study in a world language or completion of at least four Carnegie units content courses in a world language immersion setting;

iii. passing a foreign government's approved language examination and receiving a certificate of competency from the authorizing government agency at:

(a). the corresponding European B2 level;

(b). - (c). Repealed.

iv. passing a nationally-recognized world language proficiency examination with a score determined by the department, in consultation with the examination provider, to be indicative of language proficiency.

3. If the primary language of a student in grades 9 through 12 is other than English, he shall do both of the following to qualify for the state seal of biliteracy:

a. a composite score of proficient on an English language development assessment that addresses all modes of communication; and

b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:154, 17:1944, and 17:1945.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 36:1485 (July 2010), LR 37:1137 (April 2011), LR 38:754 (March 2012), LR 39:1038 (April 2013), LR 39:2216 (August 2013), LR 40:1328 (July 2014), repromulgated LR 40:1528 (August 2014), amended LR 40:2530 (December 2014), LR 45:

Subchapter B. Academic Programs of Study

§2361. Science

A. The science course offerings for the college diploma shall be as follows.

Course Title(s)	Units

IB Physics II	1
AP Physics I	1
AP Physics II	1
AP Biology	1

B. - D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1297 (June 2005), amended LR 33:2605 (December 2007), LR 36:1494 (July 2010), LR 40:1000 (May 2014), LR 40:2528 (December 2014), LR 43:1288 (July 2017), 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 741—Louisiana Handbook for School Administrators—Operation and Administration; and Curriculum and Instruction

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

There may be costs for local school districts to implement certain provisions of the proposed rule changes which codify statutory changes from the 2018 R.S. Specifically, the requirement that schools develop resources, policies, procedure and guidelines to address violence and terrorism in schools (Act 716) could result in significant costs to the districts. As an example, a recent decision by one district to place a school resource (security) officer in each school along with other security protocols resulted in an annual increase of \$2 M for the district. Actual costs will vary across districts and will depend upon the type of resources and changes adopted and are indeterminable at this time. Additionally, changes require second and third graders scoring above grade level be considered for evaluation into a gifted program (Act 688). BESE policy provides the screening procedure and personnel required for such assessments. Increases in the number of students requiring such evaluations could increase personnel resource needs of a district or school. Additionally, BESE policy provides for class size and student/teacher ratios. An increase in gifted students could require districts to expand existing programs and/or establish new programs both of which would likely increase the demand for qualified teachers. Furthermore, students scoring below grade level shall be considered for additional resources which further serve to increase resource demands. Increased needs will be based on the number of additional students identified and the existing capacity of schools to serve these students.

Districts may be required to acquire or develop new curriculum or instructional materials for increased instructional requirements. However, it is likely resources are available from state and federal agencies which will mitigate any increase in district costs for instruction in public high schools pertaining to the prevention of shaken baby syndrome (Act 300), and for certain instruction relative to alcohol, tobacco, drug and substance abuse (Act 694).

There may be workload adjustments for districts to develop and implement new policies regarding parental notification of emergency events (Act 168) and access to certain internet and online sites (Act 369), however these are not anticipated to be material in nature. Other changes not anticipated to have a material impact include language proficiency certification for certain graduates (Act 89).

Any potential impacts to the TOPS program administered by the Office of Student Financial Assistance (LOSFA) associated with the uncoupling of AP Physics I and AP Physics II for TOPS credit (Act 671), are not anticipated to be material as it does not reduce the eligibility criteria for obtaining the award.

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)

While the changes do not reduce the overall criteria for TOPS eligibility, high school students affected by the changes to the Physics requirements will benefit from the increased flexibility in qualifying for the award.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux
Deputy Superintendent
1810#043

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators—Preventive Programs and High School Graduation Requirements (LAC 28:LXXIX.1301, 1309 and 2109)

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 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*. The proposed amendments align state policy with Acts of the 2018 Regular Legislative Session, requiring: instruction relative to alcohol, tobacco, drug, and substance abuse prevention and education; teachers, school counselors, principals and certain other administrators to receive two hours of annual in-service training in suicide prevention; and uncouple AP physics I and AP physics II for purposes of earning TOPS credit.

**Title 28
EDUCATION**

**Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators
Chapter 13. Preventive Programs**

§1301. Substance Abuse

A. - B. ...

C. Any instruction relative to alcohol, tobacco, drug, and substance abuse prevention and education provided pursuant to this Section will include the information that mixing opioids and alcohol can cause accidental death.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:3079 (December 2005), LR 45:

§1309. Suicide Prevention

A. Teachers, school counselors, principals and certain other school administrators in public elementary and secondary schools will receive two hours of annual in-service training in suicide prevention.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 17:411, and 17:437.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:

Chapter 21. Curriculum and Instruction

Subchapter C. Secondary Schools

§2109. High School Graduation Requirements

A. - C. ...

D. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements will be the following:

1. - 2.d.xiv. ...
3. science—four units:
 - a. - c.vi.(b). ...
 - vii. one of:
 - (a). - (b). ...
 - (c). AP physics I;