



# 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**  
1<sup>st</sup> BESE District

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

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

**Tony Davis**  
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 October 20, 2018, Notice of Intent that was promulgated on pages 1922-1924 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

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.7. ...

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;

- viii. one of:  
(a). - (c). ...  
(d). AP physics II;

ix. one of:

- (a). biology II;  
(b). AP biology;  
(c). IB biology I;  
(d). IB biology II;  
(e). human anatomy and physiology;

x. - x.(e). Repealed.

4. - 4.c.viii. ...

ix. AP psychology;

D.5. - F.3.b. ...

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 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:1485 (August 2015), LR 41:2127 (October 2015), LR 42:1064 (July 2016), LR 43:1289 (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 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators— Preventive Programs and High School Graduation Requirements

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

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, are not anticipated to be material as it does not reduce the eligibility criteria for obtaining the award.

The proposed revisions require certain instruction relative to alcohol, tobacco, drug, and substance abuse prevention and education; require 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.

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 may be costs for non-public schools to implement some of the proposed changes. Specifically, the requirement that teachers, counselors and other school administrators receive two hours of annual training on suicide prevention may require additional professional development. However, to the extent such training can be incorporated into existing professional development activities, these costs will be mitigated. Additionally, while the requirements relative to instruction on alcohol, drug, and substance abuse may require additional curriculum and instructional resources, materials available from other state and federal agencies are available to meet this need.

Finally, 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#041

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs and Criminal Investigations Division**

**Closure Requirements for Surface Impoundments  
(LAC 33:VII.115 and 713.E) (SW064)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Solid Waste regulations, LAC 33:VII.115 and 713.E (SW064).

This Rule creates and defines risk-based closure standards for solid waste surface impoundments using the LDEQ Risk Evaluation/Corrective Action Program (RECAP). The proposed definitions and rule changes will allow for the closure of solid waste surface impoundments under RECAP equivalent to and in lieu of clean closure. This Rule also amends the definition of clean closure for solid waste surface impoundments.

The basis and rationale for this rule are pursuant to two rulemaking petitions from stakeholders. The current regulations only allow facilities to clean close impoundments or close with waste in place. This revision to the regulations will allow facilities to close surface impoundments utilizing risk-based closure standards in accordance with RECAP.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33  
ENVIRONMENTAL QUALITY**

**Part VII. Solid Waste**

**Subpart 1. Solid Waste Regulations**

**Chapter 1. General Provisions and Definitions**

**§115. Definitions**

A. For all purposes of these rules and regulations, the terms defined in this Section shall have the following meanings, unless the context of use clearly indicates otherwise.

\*\*\*

*Clean Closure*—the act of closing a solid waste unit or facility whereby all solid waste is removed, and the constituent of concern concentrations in soil and groundwater meet background conditions.

\*\*\*

*Risk-Based Closure*—the act of closing a surface impoundment whereby solid waste is removed and managed as approved by the department, and the concentrations of the constituents of concern in soil and groundwater comply with LAC 33:I.Chapter 13 (RECAP).

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AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2001 et seq. and in particular R.S. 30:2154.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Solid and Hazardous Waste, Solid Waste Division, LR 19:187 (February 1993), amended LR 22:279 (April 1996), amended by the Office of Waste Services, Solid Waste Division, LR 23:1145 (September 1997), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2514, 2609 (November 2000), amended by the Office of Environmental Assessment, LR 31:1576 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 33:1019 (June 2007), LR 34:1023 (June 2008), LR 34:1399 (July 2008), LR 37:1563 (June 2011), LR 37:3233 (November 2011), LR 38:46 (January 2012), amended by the Office of the Secretary, Legal Affairs and Criminal Investigations Division, LR 45:

**Chapter 7. Solid Waste Standards**

**Subchapter A. Landfills, Surface Impoundments,  
Landfarms**

**§713. Standards Governing Surface Impoundments  
(Type I and II)**

A. - E.1.a. ...

b. an updated closure plan, if applicable; and

c. ...

2. Preclosure Requirements. The following standards apply to preclosure requirements for any surface impoundments seeking closure.

a. ...

b. The runoff-diversion system shall be maintained and modified to prevent overflow from the facility to off-site areas.

3. Closure Requirements. Surface impoundments may be closed pursuant to a clean-closure, risk-based closure, or closure with waste in place.

a. For all closures, surface liquids and sludges containing free liquids shall be dewatered or removed from the surface impoundment.