



# 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

October 11, 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

**Gary Jones**  
5<sup>th</sup> BESE District

**Kathy Edmonston**  
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 *Shan N. Davis*  
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 September 20, 2018, Notice of Intent that was promulgated on pages 1652-1654 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 December 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:sfr

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

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Economically Disadvantaged (LAC 28:CXXXIX.105, 515, 1101, 2101, 2711, and 3705)

In accordance with R.S. 17:6 and 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 amendments to *Bulletin 1706—Regulations for the Implementation of the Children with Exceptionalities Act*. The proposed amendments update terminology to refer to students as “economically disadvantaged” instead of “at-risk” in order to align the rules in the *Louisiana Administrative Code* with Act 307 of the 2018 Regular Legislative Session.

#### Title 28 EDUCATION

#### Part CXXXIX. Bulletin 126—Charter Schools

#### Chapter 1. General Provisions

#### §105. Purpose of Charter Schools

A. - B. ...

C. The charter school law expresses the intention of the legislature that the best interests of economically-disadvantaged pupils shall be the overriding consideration in implementing the provisions of the law.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3972, and 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1358 (July 2008), amended LR 40:1322 (July 2014), LR 44:

#### Chapter 5. Application and Approval Process for BESE-Authorized Charter Schools

#### §515. Application Components for BESE-Authorized Charter Schools

A. - D.12. ...

13. a description of the school's instructional design, including the type of learning environment (such as classroom-based or independent study), class size and structure, curriculum overview, and teaching methods, and how that program will meet the needs of the economically-disadvantaged students to be served;

D.14. - H.11. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1362 (July 2008), amended LR 37:869 (March 2011), LR 37:2383 (August 2011), LR 38:38 (January 2012), LR 38:750 (March 2012), repromulgated LR 38:1392 (June 2012), amended LR 38:1583 (July 2012), LR 38:3118 (December 2012), LR 39:1432 (June 2013), LR 43:2477 (December 2017), LR 44:233 (February 2018), LR 44:

#### Chapter 11. Ongoing Review of Charter Schools

#### §1101. Evaluation for BESE-Authorized Charter Schools

A. - H.7....

#### I. Organizational Performance

1. BESE shall evaluate a charter school's organizational performance based on the Department of Education's oversight and monitoring of the charter school's compliance with and performance of statutory, regulatory,

reporting, and contractual obligations, including R.S. 17:3972, which provides that the best interests of economically-disadvantaged pupils shall be the overriding consideration in implementing the provisions of charter law.

2. BESE's organizational performance evaluation of each charter school shall be based on, but not limited to data and information in the following areas:

- a. special education and ELL program;
- b. student enrollment;
- c. student discipline;
- d. health and safety
- e. governance; and
- f. facilities.

3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1363 (July 2008), amended LR 37:871 (March 2011), repromulgated LR 37:1124 (April 2011), amended LR 37:2385 (August 2011), LR 38:751 (March 2012), repromulgated LR 38:1393 (June 2012), amended LR 38:3118 (December 2012), LR 39:1433 (June 2013), LR 39:3065 (November 2013), amended LR 40:1322 (July 2014), LR 44:235 (February 2018), LR 44:

#### Chapter 21. Charter School Governance

#### §2101. Board of Director Composition

A. - C. ...

D. Beginning October 1, 2018, the membership of the governing or management board of each charter school located in a parish with a population between 325,000 and 375,000 persons, based on the most recent federal decennial census, shall include at least one member who is a parent, legal guardian, or grandparent of a student enrolled in the charter school or an alumnus of the school, who may be appointed or elected.

E. Beginning with the 2019-2020 school year, at least 60 percent of the governing or management board of each charter school, other than a type 2 charter school, located in a parish with a population of between 325,000 and 375,000 persons census, shall be residents of the parish in which the charter school is located.

F. Board of Director Composition for BESE-Authorized Charter Schools

1. The board of directors of each charter operator shall consist of no fewer than seven members. Should a board have fewer than seven members due to the resignation or other loss of one or more board members, the board shall have 90 calendar days after such loss to appoint one or more replacements.

2. The board of directors of each charter operator should consist of members with a diverse set of professional skills and practical work experience in the areas of education, public/non-profit and/or for-profit administration or operations, community development, finance, and law.

3. The board of directors of each charter operator should be representative of the community in which the charter school is located and no fewer than 60 percent of its members shall reside in the community in which the charter school is located. *Community*, for the purposes of this Paragraph, shall consist of the parish in which the school is located and immediate neighboring parishes and, for type 2 charter schools, any parish that is included in the charter school's attendance zone. No fewer than 60 percent of the

members of the board of directors of any charter operator that operates multiple schools in different communities shall reside in the communities in which the charter schools are located, with equal representation from each community to the greatest extent possible.

4. The board of directors of each charter operator shall consist of no more than one person from the same immediate family, as defined by the *Code of Governmental Ethics*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 34:1370 (July 2008), amended LR 37:873 (March 2011), LR 37:1377 (May 2011), LR 44:240 (February 2018), LR 44:

## **Chapter 27. Charter School Recruitment and Enrollment**

### **§2711. Enrollment Preferences for BESE-Authorized Charter Schools**

A. ...

B. Students previously enrolled in the charter school shall be given preference over all other applicants, and shall maintain enrollment or be automatically admitted following the charter school's application period. Students attending a pre-kindergarten or early childhood program operated by a charter school may be considered to have been previously enrolled at the charter school for the purpose of this Subsection. Requests by charter schools to give preference for students who attend a publicly-funded program at no cost to the student shall be automatically approved by the department for BESE-authorized charter schools, or the charter school's authorizer for other types of charter schools. For a charter school that requests to apply this preference for students who were admitted to a pre-kindergarten or early childhood program that utilizes admission requirements and/or charges tuition for some or all of its students, the use of the preference shall be subject to the approval of the department for BESE-authorized charter schools, or the charter school's authorizer for other types of charter schools. In such a case, the department or the charter school's authorizer, as applicable, shall require the charter school to set enrollment targets that ensure the charter school provides equity of access for economically disadvantaged applicants to its kindergarten classes.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3991.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:1375 (July 2008), amended LR 37:875 (March 2011), LR 39:1022 (April 2013), LR 44:243 (February 2018), LR 44:

## **Chapter 37. Virtual Charter Schools**

### **§3705. Technical Requirements for Virtual Charter Schools**

A. The following technical specifications are required for all virtual charter schools:

1. - 2. ...

3. provide each full-time student enrolled in the program who qualifies for free or reduced-price school lunches under the National School Lunch Act, is considered economically disadvantaged for the purpose of calculating funding through the Minimum Foundation Program, or does

not have a computer or internet access in his or her home with:

3.a. - 7. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:39 (January 2012), 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 12 p.m., October 10, 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 126—Charter Schools—Economically Disadvantaged**

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

The proposed revisions update terminology to refer to students as “economically disadvantaged” instead of “at-risk” to align with Act 307 of the 2018 Regular Legislative Session. The proposed revisions also update policies relative to parent representation on the membership of charter school boards to align with Act 646 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  
1809#049

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 1566—Pupil Progression Policies and Procedures—  
Student Placement (LAC 28:XXXIX.503)

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 amendments to *Bulletin 1566—Pupil Progression Policies and Procedures*. The proposed amendments revisions provide relative to student placement in first grade and regarding the transfer of students from out-of-state schools, non-public schools, and home study programs. The revisions outline prerequisites to enrollment in first grade, and requirements for students transferring into public schools seeking to enroll in fifth and ninth grade.

**Title 28**

**EDUCATION**

**Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures**

**Chapter 5. Placement Policies—General Requirements**

**§503. Regular Placement**

**A. - A.1.e. ...**

2. Every child, as a prerequisite to enrollment in any first grade of a public school, shall have attended at least a full-day public or non-public kindergarten for a full school year, or shall have satisfactorily passed an academic readiness screening administered by the school system prior to the time of enrollment for the first grade. Each school system shall establish the academic readiness level for its first grade based on criteria established by the system. Any child not able to meet kindergarten attendance requirements due to illness or extraordinary, extenuating circumstances as determined by the school governing authority, shall be required to satisfactorily pass an academic readiness screening administered by the school system prior to the time of enrollment for the first grade. In accordance with R.S. 17:221, any child below the age of seven who legally enrolls in school shall be subject to state laws regarding compulsory attendance and promotion requirements set forth by the school system in accordance with this bulletin.

**B. - D.2.a.**

**E. Transfer Students**

1. The local school board shall establish written policies for the placement of students transferring from all other systems and home schooling programs (public, nonpublic, both in and out-of-state, and foreign countries).

a. Students in grades 5 and 9 transferring to a public school from any in-state nonpublic school (state-approved and not seeking state approval), any approved home study program, or Louisiana resident transferring from any out-of-state school, shall be administered the English language arts and mathematics portions of the LEAP placement test. Students who have scored below the “basic” achievement level shall have placement and individual academic supports addressed in the same manner as non-transfer students in accordance with §701 and §703.