



# 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

**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**  
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**Ronnie Morris**  
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**Preston Castille**  
8<sup>th</sup> BESE District

**Thomas Roque**  
Member-at-Large

**Belinda Davis**  
Member-at-Large

**Doris Voitier**  
Member-at-Large

February 7, 2020

## MEMORANDUM

TO: Senator Patrick Page Cortez, Senate President  
Representative Clay Schexnayder, Speaker of the House  
Senator Cleo Fields, Chair, Senate Committee on Education  
Representative Raymond E. Garofalo, Chair, House Committee on Education

FROM: Shan N. Davis, Executive Director   
Board of Elementary and Secondary Education

RE: 2019 Yearly Action Report

Pursuant to R.S. 49:968(K), the Board of Elementary and Secondary Education is submitting the attached 2019 Yearly Action Report regarding adoption, amendment, or repeal of any rule or the adoption, increase, or decrease of any fee during the calendar year 2019 (January 1, 2019, through December 31, 2019). Also attached are the summaries regarding petitions for rulemaking reviewed by the Board during the calendar year 2019 (January 1, 2019, through December 31, 2019).

Please contact me if I may be of assistance to you concerning these documents.

SND:slr

Attachments (5)

**Shan N. Davis**  
Executive Director

# **Attachment 1**

2019 Yearly Action Report

Bulletin and Notice of Intent Title	Date of Board Action	1st Report-NOI/Rules submitted to OSR and 4 Legis. Entities	Date Notice of Intent Published	Public Comments Received	Request for Public Hearing received	Summary Report (2nd Report) - no hearing or comments	Summary Report (2nd Report) - with hearing or comments	Rule
137 - June Sections 1806, 1819, and 1823	6/20/18	11/10/18	11/20/18	no	no	12/11/18	NA	Feb-19
119 - August Sections 309 and 1505	8/15/18	10/10/18	10/20/18	no	no	11/13/18	NA	Jan-19
135 - August Section 303	8/15/18	10/10/18	10/20/18	no	no	11/13/18	NA	Jan-19
741 - August Sections 339, 349, 2305, 2307, 2317, and 2361	8/15/18	10/10/18	10/20/18	no	no	11/13/18	NA	Jan-19
741NP - August Sections 1301, 1309, and 2109	8/15/18	10/10/18	10/20/18	no	no	11/13/18	NA	Jan-19
129 - August Sections 1103 and 1105	8/15/18	11/10/18	11/20/18	no	no	12/11/18	NA	Feb-19
746 - August Sections 203, 348, and 648	8/15/18	11/10/18	11/20/18	no	no	12/11/18	NA	Feb-19
<b>DECLARATION OF EMERGENCY EXT. - 137 Sections 1805, 1806, 1819, and 1823</b>	6/20/18	NA	OSR posted Emergency Rule EXT. 10/18/18, Eff. 10/18/18 until 2/15/19	NA	NA	NA	NA	NA
111 - October Sections 405 and 409	10/17/18	11/10/18	11/20/18	no	no	12/11/18	NA	Feb-19
741 - October Section 2317	10/17/18	11/10/18	11/20/18	no	no	12/11/18	NA	Feb-19
111 - October Sections 605, 3501, 3503, 3505, and 3507	10/17/18	12/10/18	12/20/18	yes	no	1/10/19	1/24/19	Mar-19
131 - October Sections 101, 301, 501, 701, 901, 1101, 1301, 1501, 1701, 1901, 2101, 2103, 2105, 2107, 903, 1703, 1903, 1905, and 1907	10/17/18	12/10/18	12/20/18	no	no	1/10/19	NA	Mar-19
741 - October Sections 2901, 2903, 2905, and 2909	10/17/18	12/10/18	12/20/18	no	no	1/10/19	NA	Mar-19
125 - October Section 301	10/17/18	11/10/18	11/20/18	no	no	12/11/18	NA	Feb-19
130 - October Sections 101, 307, 311, and 325	10/17/18	11/10/18	11/20/18	no	no	12/11/18	NA	Feb-19
746 - October Sections 203, 341, 703, 705, 761, 787, 1001, 240, 350, 351, and 713	10/17/18	11/10/18	11/20/18	no	no	12/11/18	NA	Feb-19
996 - October Sections 303, 401, 743, and 747	10/17/18	11/10/18	11/20/18	no	no	12/11/18	NA	Feb-19
741 - October Sections 3301, 3305, 3307, 3309, 3311, 3313, 3315, and 3317	10/17/18	11/10/18	11/20/18	yes	no	NA	12/12/18	Feb-19
<b>DECLARATION OF EMERGENCY EXT. - 1566 Section 503</b>	8/15/18	NA	OSR posted Emergency Rule EXT. 12/12/18, Eff. 12/12/18 until 4/11/19	NA	NA	NA	NA	NA

The 2019 Action Report reflects policy revisions that occurred during the 2019 calendar year, whether or not the action taken was in the form of a Board approved Notice of Intent or in the form of a Final Rule noticed in the Louisiana Register.

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DECLARATION OF EMERGENCY EXT. - 118 Sections 5105, 5701, 6803, and 6813	8/15/18	NA	OSR posted Emergency Rule EXT. 12/12/18; Eff. 12/12/18 until 4/11/19	NA	NA	NA	NA	NA
DECLARATION OF EMERGENCY EXT. - 745 Sections 101, 103, 105, 107, 109, and 111	8/15/18	NA	OSR posted Emergency Rule EXT. 12/12/18; Eff. 12/12/18 until 4/11/19	NA	NA	NA	NA	NA
DECLARATION OF EMERGENCY - 126 Sections 2107, 2903, and 2905	8/15/18	NA	OSR posted Emergency Rule EXT. 12/12/18; Eff. 12/12/18 until 4/11/19	NA	NA	NA	NA	NA
DECLARATION OF EMERGENCY EXT. - 741 Sections 501 and 504	8/15/18	NA	OSR posted Emergency Rule EXT. 12/12/18; Eff. 12/12/18 until 4/11/19	NA	NA	NA	NA	NA
DECLARATION OF EMERGENCY EXT. - 741NP Sections 123 and 125	8/15/18	NA	OSR posted Emergency Rule EXT. 12/12/18; Eff. 12/12/18 until 4/11/19	NA	NA	NA	NA	NA

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DECLARATION OF EMERGENCY EXT. - 746 Sections 311, 903, 905, 906, and 911	8/15/18	NA	OSR posted Emergency Rule EXT. 12/12/18; Eff. 12/12/18 until 4/11/19	NA	NA	NA	NA	NA
DECLARATION OF EMERGENCY EXT. - 137 Sections 1805, 1806, 1819, and 1823	6/20/18	NA	OSR posted Emergency Rule EXT. 10/18/18; Eff. 10/18/18 until 2/15/19	NA	NA	NA	NA	NA
137 - December Sections 305 and 1711	12/12/18	1/10/19	1/20/19	no	no	2/11/19	NA	Apr-19
1530 - December Sections 503 and 505	12/12/18	1/10/19	1/20/19	no	no	2/11/19	NA	Apr-19
746 - December Sections 305, 705, 706, 708, 709, 723, and 725	12/12/18	1/10/19	1/20/19	no	no	2/11/19	NA	Apr-19
111 - January Sections 411, 605, 1103, and 2901	1/23/19	3/8/19	3/20/19	no	no	4/10/19	NA	Jun-19
139 - March Sections 509 and 511	3/13/18	4/10/19	4/20/19	no	no	5/13/19	NA	Jul-19
745 - March Sections 103, 104, and 111	3/13/18	4/10/19	4/20/19	no	no	5/13/19	NA	Jul-19
996 - March Section 407	3/13/18	4/10/19	4/20/19	no	no	5/13/19	NA	Jul-19
996 - March Sections 101, 303, 305, and 749	3/13/18	4/10/19	4/20/19	no	no	5/13/19	NA	Jul-19
741NTP - April Sections 117, 303, 901, 1309, and 2339	4/17/19	5/10/19	5/20/19	no	no	6/10/19	NA	Aug-19
746 - April Sections 405, 659, 901, 903, 904, 905, 906, 907, 908, 909, 910, and 911	4/17/19	5/10/19	5/20/19	no	no	6/10/19	NA	Aug-19
130 - April Section 315	4/17/19	5/10/19	5/20/19	no	no	6/10/19	NA	Aug-19
996 - April Sections 403 and 409	4/17/19	5/10/19	5/20/19	no	no	6/10/19	NA	Aug-19
1530 - December Section 503	12/12/18	6/10/19	6/20/19	no	no	7/11/19	NA	Sep-19
1530 - December Section 505	12/12/19	7/10/19	7/20/19	no	no	8/12/19	NA	Oct-19
111 - June Sections 301, 307, 607, 801, 803, and 805	6/20/19	7/10/19	7/20/19	no	no	8/12/19	NA	Oct-19
140 - June Sections 313, 503, 509, 511, and 709	6/20/19	7/10/19	7/20/19	no	no	8/12/19	NA	Oct-19
741 - June Sections 2318, 2320, and 2345	6/20/19	7/10/19	7/20/19	no	no	8/12/19	NA	Oct-19
741NTP - June Sections 2109 and 2317	6/20/19	7/10/19	7/20/19	no	no	8/12/19	NA	Oct-19
746 - June many sections	6/20/19	7/10/19	7/20/19	no	no	8/12/19	NA	Oct-19
126 - June Section 107	6/20/19	7/10/19	7/20/19	no	no	8/12/19	NA	Oct-19
LAC 28:1 - June many sections	6/20/19	7/10/19	7/20/19	no	no	8/12/19	NA	Oct-19

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111 - August Section 911	8/14/19	9/10/19	9/20/19	no	no	10/11/19	NA	Dec-19
741 - August Sections 339, 1127, 2305, and 2319	8/14/19	9/10/19	9/20/19	no	no	10/11/19	NA	Dec-19
741 NP - August Section 1309	8/14/19	9/10/19	9/20/19	no	no	10/11/19	NA	Dec-19
1566 - August Sections 503, 705, 707, and 901	8/14/19	10/10/19	10/20/19	no	no	11/11/19	NA	Jan-20
118 - August Sections 6115 and 6813	8/14/19	9/10/19	9/20/19	no	no	10/11/19	NA	Dec-19
DECLARATION OF EMERGENCY - 118 Sections 6115 and 6813	8/14/19	NA	OSR posted Emergency Rule 8/16/19; Eff. 8/14/19 until 12/12/19	NA	NA	NA	NA	NA
139 - August Sections 319 and 515	8/14/19	9/10/19	9/20/19	no	no	10/11/19	NA	Dec-19
DECLARATION OF EMERGENCY 139 - Sections 319 and 515	8/14/19	NA	OSR posted Emergency Rule 8/16/19; Eff. 8/14/19 until 12/12/19	NA	NA	NA	NA	NA
111 - August Sections 409 and 4001	8/14/19	10/10/19	10/20/19	no	no	11/11/19	NA	Jan-20
118 - August Sections 7301, 7307, 7311, 5701, 8307, and 8505	8/14/19	10/10/19	10/20/19	no	no	11/11/19	NA	Jan-20
741 - August Section 351	8/14/19	10/10/19	10/20/19	no	no	11/11/19	NA	Jan-20
DECLARATION OF EMERGENCY - 746 Section 101	8/14/19	NA	OSR posted Emergency Rule 8/16/19; Eff. 8/14/19 until 12/12/19	NA	NA	NA	NA	NA
746 - August Sections 305, 313, 323, 803, and 904	8/14/19	9/10/19	9/20/19	no	no	10/11/19	NA	Dec-19
996 - August Section 745	8/14/19	9/10/19	9/20/19	no	no	10/11/19	NA	Dec-19
746 - August Section 101	8/14/19	10/10/19	10/20/19	no	no	11/11/19	NA	Jan-20
1706 - October 101, 153, 450, 508, 904, 1101, 1153, 1508, and 1511	10/16/19	11/8/19	11/20/19	no	no	12/11/19	NA	Feb-20
741 - October Section 507	10/16/19	12/9/19	12/20/19	no	no	1/10/20	NA	Mar-20
746 - October Sections 203, 305, 313, and 304	10/16/19	12/9/19	12/20/19	no	no	1/10/20	NA	Mar-20
DECLARATION OF EMERGENCY - 746 Section 203	10/16/19	NA	OSR posted Emergency Rule 10/16/19; Eff. 10/16/19 until 2/13/20	NA	NA	NA	NA	NA
996 - October Section 745	10/16/19	12/9/19	12/20/19	no	no	1/10/20	NA	Mar-20
741 - December Sections 2318 and 2319	12/11/19	1/10/20	1/20/20	no	no	2/10/20	NA	Apr-20
140 - December Sections 901, 903, 905, 907, 909	12/11/19	1/10/20	1/20/20	no	no	2/10/20	NA	Apr-20

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746 - December Section 203	12/11/19	1/10/20	1/20/20	no	no	2/10/20	NA	Apr-20
DECLARATION OF EMERGENCY EXT. - 118 Sections 6115 and 6813	8/14/19	NA	OSR posted Emergency Rule ext. 12/12/19; Eff. 12/12/19 until 4/10/20	NA	NA	NA	NA	NA
DECLARATION OF EMERGENCY EXT. 139 - Sections 319 and 515	8/14/19	NA	OSR posted Emergency Rule ext. 12/12/19; Eff. 12/12/19 until 4/10/20	NA	NA	NA	NA	NA
DECLARATION OF EMERGENCY EXT. - 746 Section 101	8/14/19	NA	OSR posted Emergency Rule ext. 12/12/19; Eff. 12/12/19 until 4/10/20	NA	NA	NA	NA	NA

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February 7, 2020

## MEMORANDUM

**TO:** Senator Patrick Page Cortez, Senate President  
Representative Clay Schexnayder, Speaker of the House  
Senator Cleo Fields, Chair, Senate Committee on Education  
Representative Raymond E. Garofalo, Chair, House Committee on Education

**FROM:** Shan N. Davis, Executive Director  
Board of Elementary and Secondary Education

**RE:** Summary of Petition for Rulemaking  
January 2019

On December 7, 2018, a petition for Rulemaking was received in the BESE office regarding, Bulletin 130, *Regulations for the Evaluation and Assessment of School Personnel: §105. Framework for LEA Personnel Evaluation Programs, Subsection B.3.* Please see the attached completed petition for rulemaking form submitted by Mr. Ganey Arsement. (Attachment 2)

Also attached is an agency response, submitted by the Louisiana Department of Education (LDE). (Attachment 3)

The Louisiana State Board of Elementary and Secondary Education met in regular session on January 23, 2019, and took the following action:

On motion of Mr. Davis, seconded by Ms. Holloway, the Board:

1. received the Petition for Rulemaking regarding Bulletin 130, *Regulations for the Evaluation and Assessment of School Personnel: §105. Framework for LEA Personnel Evaluation Programs, Subsection B.3.* and;
2. received the Summary of Petition for Rulemaking and Agency Response regarding Bulletin 130, *Regulations for the Evaluation and Assessment of School Personnel: §105. Framework for LEA Personnel Evaluation Programs, Subsection B.3.*, submitted by the Louisiana Department of Education.

On motion of Ms. Voitier, seconded by Ms. Holloway, the Board denied the request of the Petition for Rulemaking regarding Bulletin 130, *Regulations for the Evaluation and Assessment of School Personnel: §105. Framework for LEA Personnel Evaluation Programs, Subsection B.3.*

SND:slr

# **Attachment 2**



# Petition for Rulemaking

for submission to the  
Louisiana State Board of Elementary  
and Secondary Education (BESE)

<i>For BESE Office Use Only</i>	
Date received	_____
Received by	_____
Signature	_____
Date formally presented to BESE	_____

I, Ganey Arsement, a citizen of the state of Louisiana, whose signature is appended to this petition, hereby petition the Louisiana State Board of Elementary and Secondary Education (BESE), in accordance with the Louisiana Administrative Procedure Act, R.S. 49:953(C) and LAC 28:I.1309, regarding the following: (Use separate form for each bulletin)

Bulletin number: 130

Section number(s): 105, B., 3.

The petition requests that BESE: *(Check all that apply)*

Adopt new Rule(s)       Amend current Rule(s)       Repeal current Rule(s), as follows:

**Justification for the requested revision(s):** *(Summarize content and impact of proposal)*

R.S. 17:3902, Section 3, specifically says that the observation portion of a teacher's evaluation "shall occur at a time and place determined in advance." The purpose of this is to allow a teacher the opportunity to meet with the evaluator and communicate any concerns in a pre-observation conference. Bulletin 130, Section 105, 3., states a minimum of two observations shall be conducted and "at least one of these observations shall include a pre- and post-observation conference." This rule is in conflict with the statute and implies that an unannounced observation can be included in the final calculation of effectiveness.

*Additional pages or a separate attachment are acceptable.*

**Petitioner's designee:** *(if applicable)*

The petitioner designates \_\_\_\_\_ as the representative of this petition.

Mailing Address \_\_\_\_\_

Email *(optional)* \_\_\_\_\_ Phone *(optional)* \_\_\_\_\_

**Petitioner information:**

Name Ganey Arsement

Mailing Address 749 Bienville St., Lake Charles, LA 70607

Email *(optional)* ganey.arsement@gmail.com Phone *(optional)* (337) 263-6027

Petitioner's signature  Date 11/29/18

Designee's signature *(if applicable)* \_\_\_\_\_ Date \_\_\_\_\_

The petition must be submitted via certified mail and addressed to:

**Board of Elementary and Secondary Education**  
Attn: Shan Davis, Executive Director  
P.O. Box 94064, Capitol Station  
Baton Rouge, LA 70804-9064

**RECEIVED**  
**DEC 07 2018**  
**Board of Elementary  
and Secondary Education**

## EDUCATION

2. Professional Growth Planning Process. The LEA shall provide guidelines for teachers and administrators to develop a professional growth plan with their evaluators. Such plans must be designed to assist each teacher or administrator in demonstrating effective performance, as defined by this bulletin. Each plan will include objectives as well as the strategies that the teacher or administrator intends to use to attain each objective.

3. Observation/Data Collection Process. The evaluator or evaluators of each teacher and administrator shall conduct observations of teacher and administrator practice sufficient to gain a complete picture of performance and impart individualized feedback each year. This shall include a minimum of two observations per academic year and may include more observations, particularly for teachers or administrators that are not meeting expectations. **At least one of these observations shall be announced and shall include a pre- and post-observation conference.** One of the observations may be waived for teachers who have earned a rating of highly effective according to the value-added model in the previous year. Following all observations, evaluators shall provide evaluatees with feedback, including areas for commendation as well as areas for improvement. Additional evidence, such as data from periodic visits to the school and/or classroom as well as written materials or artifacts, may be used to inform evaluation.

4. Professional Development and Support. LEAs shall provide multiple opportunities for teachers and administrators to receive feedback, reflect on individual practice, and consider opportunities for improvement throughout the academic year, and shall provide intensive assistance plans to teachers and administrators, according to the requirements set forth in this bulletin.

5. Grievance Process. LEAs shall include in their local personnel evaluation plans a description of the procedures for resolving conflict and/or grievances relating to evaluation results in a fair, efficient, effective, and professional manner.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010), amended LR 38:1215 (May 2012), LR 38:2359 (September 2012), LR 39:1273 (May 2013).

### Chapter 3. Personnel Evaluation

#### §301. Overview of Personnel Evaluation

A. Personnel evaluation for teachers and administrators shall be composed of two parts. Fifty percent of the evaluation shall be composed of applicable measure(s) of growth in student learning. The remaining 50 percent shall be based upon a qualitative assessment of teacher or administrator performance.

1. For teachers, data derived from the value-added assessment model shall be a factor in measuring growth in student learning for grade levels and subjects for which

value-added data are available. If value-added data are available, growth in student learning (50 percent of the total score) shall be comprised of 35 percent value-added data and 15 percent student learning targets. If value-added data are not available, growth in student learning shall be comprised of 50 percent student learning targets. For administrators, the 50 percent of the evaluation based upon growth in student learning shall incorporate a school-wide measure of growth and goal setting for principals is subject to §305.D of this bulletin.

2. The 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include a minimum of two observations or site visits. This portion of the evaluation may include additional evaluative evidence, such as walk-through observation data and evaluation of written work products.

B. The combination of the applicable measure of growth in student learning and the qualitative assessment of performance shall result in a composite score used to distinguish levels of overall effectiveness for teachers and administrators.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1215 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1266 (July 2015), LR 43:2480 (December 2017).

#### §303. Measures of Growth in Student Learning—Value-Added Model

A. A value-added model shall be used to measure student growth for the purposes of teacher and administrator evaluation, where available, according to guidelines provided by the department.

B. Value-added data shall be provided to teachers in grades and subjects that administer state-wide standardized tests and for which appropriate prior testing data is available. The value-added model shall not be applied for the purposes of evaluation in any cases in which there are fewer than 10 students with value-added results assigned to an educator.

C. The value-added model shall be a statistical model approved by the board for linking academic gains of students to teachers in grades and subjects for which appropriate data are available.

D. The value-added model shall take into account the following student-level variables:

1. prior achievement data that are available (up to three years);
2. gifted status;
3. section 504 status;
4. attendance;
5. disability status;
6. economically disadvantaged status;

## RS 17:3902

### §3902. Evaluation program; process

A. Every teacher and administrator who has been employed by a local board shall be formally evaluated annually by the local board pursuant to this Subpart.

B. The elements of evaluation and standards for effectiveness shall be defined by the board pursuant to rules and regulations promulgated for such purpose. Such rules and regulations shall require that, at a minimum, local evaluation plans contain the following elements:

(1) A job description. The local board shall establish a job description for every category of teacher and administrator pursuant to its evaluation plan. Such job descriptions shall contain the criteria on which the teacher or administrator shall be evaluated. Each teacher or administrator shall be provided with his job description prior to the beginning of his first employment in the school system in his position and each time the job description is revised. The teacher or administrator shall acknowledge receipt of the job description by signing a copy thereof.

(2) A professional growth plan. A professional growth plan shall be developed by each teacher and administrator, collaboratively with his evaluator or evaluators during the beginning of each evaluation period. Such plan shall be designed to assist each teacher and administrator in meeting the standards for effectiveness, effectively addressing the social, developmental, and emotional needs of students and maintaining a classroom environment that is conducive to learning. Each such plan shall include a statement of the professional development objectives of the teacher or administrator as well as the strategies the teacher or administrator intends to employ toward the realization of each objective.

(3) Observation and conferencing. The evaluator or evaluators of each teacher or administrator shall conduct a pre-observation conference during which the teacher or administrator shall provide the evaluator or evaluators with relevant information. A teacher shall provide information concerning the planning of the lesson to be observed as well as any other information the teacher considers pertinent. **The observation shall occur at a time and place established in advance**, shall be of sufficient duration to provide meaningful data which, in the case of a teacher, shall be not less than the duration of one complete lesson. In the case of a teacher, the observation shall be conducted using the components of effective teaching, as well as any additional local board criteria included in the job description. In the case of an administrator, the observation may consist of the collection of prescribed performance documentation and shall be conducted using applicable components of effective teaching, elements prescribed by board rule, and any additional local board criteria included in the job description. A post-observation conference shall be conducted to discuss commendation and recommendations.

(4) Classroom visitation. The evaluator may, on his own initiative or upon the request of a teacher or administrator he has evaluated, periodically visit the teacher or administrator to monitor progress toward achievement of professional growth plan objectives and provide support or assistance.

(5) Measure of effectiveness. Fifty percent of such evaluations shall be based on evidence of growth in student achievement as determined by the board. Data derived from a value-added assessment model, as determined by the board, shall be a factor in determining evidence of student growth for grade levels and subjects for which value-added data is available and shall

comprise thirty-five percent of the overall evaluation. For grade levels and subjects for which value-added data is not available and for personnel for whom value-added data is not available, the board shall establish measures of student growth. The model shall take into account important student factors, including but not limited to special education, economic disadvantage, attendance, and discipline. However, neither the value-added model nor the measures of student growth for grade levels and subjects for which value-added data are not available shall, in any given year, include a test score or data of a student who has ten or more unexcused absences in any school semester in that year. The board shall develop and adopt a policy to invalidate such student growth data for any teacher for any school year in which there is a natural disaster or any other unexpected event that results in the temporary closure of the school.

C.(1) At the conclusion of each year's evaluation, the evaluator or evaluators shall determine whether the teacher or administrator is effective or ineffective pursuant to the evaluation plan. Such determination shall be transmitted to the local board.

(2)(a) Any teacher or administrator who fails to meet the standard of performance with regard to effectiveness shall be placed in an intensive assistance program designed to address the complexity of the teacher's deficiencies and shall be formally re-evaluated. A teacher or administrator shall be informed in writing of placement in an intensive assistance program and provided in writing with the reasons for such placement.

(b) Each intensive assistance program shall be designed for the individual teacher or administrator involving the evaluator or evaluators and the teacher or administrator and shall include at a minimum:

- (i) Specific steps to be taken to improve.
- (ii) The assistance, support, and resources to be provided by the local board.
- (iii) An expected time line for achieving the objectives and the procedures for monitoring progress including observations and conferences. The time line shall not exceed two years.
- (iv) The action to be taken if improvement is not demonstrated.
- (v) If the intensive assistance program required pursuant to this Paragraph is not completed in conformity with its provisions or if the teacher or administrator is determined to be ineffective after a formal evaluation conducted immediately upon completion of the program, then the local board shall timely initiate termination proceedings pursuant to Part II of Chapter 2 of this Title.

(3) The board shall determine a standard for highly effective teachers for use by local boards to recognize, reward, and retain teachers who demonstrate a high level of effectiveness.

D. Nothing contained in this Section shall diminish the right of the local board to evaluate employees or to make employment decisions or of principals and other employees with supervisory responsibilities to observe the employees they supervise.

Acts 1994, 3rd Ex. Sess., No. 1, §2, eff. June 22, 1994; Acts 2010, No. 54, §1, eff. May 27, 2010; Acts 2014, No. 515, §1; Acts 2016, No. 504, §1, eff. June 14, 2016; Acts 2017, No. 136, §1.

# **Attachment 3**

## Summary of Petition for Rulemaking and Agency Response

### *Requested Revisions to Bulletin 130, Regulations for the Evaluation and Assessment of School Personnel*

#### **Background**

R.S. 49:953(C) and LAC 28, Part I, Section 1309, permit any interested person to petition the State Board of Elementary and Secondary Education (BESE) executive director in writing to adopt a new rule or amend or repeal an existing rule contained within the Louisiana Administrative Code, Title 28. Within 90 days of receipt of the petition for rulemaking, the executive director, after consulting with the board's officers, shall either:

1. initiate procedures for processing a proposed regulation, along with the rulemaking procedures provided in R.S. 49:950 et seq., upon approval to proceed with rulemaking; or
2. shall notify the petitioner in writing, stating the reason(s) for the denial, upon a denial to proceed with rulemaking.

#### **Petition Received**

On December 7, 2018, the BESE executive director received a Petition for Rulemaking from Mr. Ganey Arsement, who petitioned to amend Bulletin 130, Section 105(B)(3), relative to unannounced observations of teachers and administrators. Mr. Arsement cited R.S. 17:3902(3) as justification for the revision, stating that the law requires observations to be determined in advance, and that the language in Bulletin 130 that requires at least one observation of teachers and administrators to be announced and include a pre- and post-observation conference is in conflict with the law. Mr. Arsement stated that the regulation "implies unannounced observation can be included in the final calculation of effectiveness."

#### **Agency Response**

17:3883 mandates that BESE "Develop, adopt, and promulgate, in accordance with the Administrative Procedure Act, all rules necessary for the implementation of this Part."

R.S. 17:3902(A) and (B) state:

- A. Every teacher and administrator who has been employed by a local board shall be formally evaluated annually by the local board pursuant to this Subpart.
- B. The elements of evaluation and standards for effectiveness shall be defined by the board pursuant to rules and regulations promulgated for such purpose. Such rules and regulations shall require that, **at a minimum** [emphasis added], local evaluation plans contain the following elements:  
...
  - (1) A job description...
  - (2) A professional growth plan...
  - (3) Observation and conferencing...
  - (4) Classroom visitation...
  - (5) Measure of effectiveness...

R.S. 17:3902(B)(3) and (4) state:

- (3) Observation and conferencing. The evaluator or evaluators of each teacher or administrator shall conduct a pre-observation conference during which the teacher or administrator shall provide the evaluator or evaluators with relevant information. A teacher shall provide information concerning the planning of the lesson to be observed as well as any other information the teacher considers pertinent. The observation shall occur at a time and place established in advance, shall be of sufficient duration to provide meaningful data which, in the case of a teacher, shall be not less than the duration of one complete lesson. In the case of a teacher, the observation shall be conducted using the components of effective teaching, as well as any additional local board criteria included in the job description. In the case of an administrator, the observation may consist of the collection of prescribed performance documentation and shall be conducted

using applicable components of effective teaching, elements prescribed by board rule, and any additional local board criteria included in the job description. A post-observation conference shall be conducted to discuss commendation and recommendations.

(4) Classroom visitation. The evaluator may, on his own initiative or upon the request of a teacher or administrator he has evaluated, periodically visit the teacher or administrator to monitor progress toward achievement of professional growth plan objectives and provide support or assistance.

BESE is within its legal authority in requiring a minimum of two observations, with a requirement that at least one shall be announced. R.S. 17:3902(B) clearly states that BESE rules and regulations shall require that, at a minimum, local evaluation plans contain the observation set forth in R.S. 17:3902(B)(3). BESE is authorized to require more than the minimum as it deems necessary.



# 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

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8<sup>th</sup> BESE District

**Thomas Roque**  
Member-at-Large

**Belinda Davis**  
Member-at-Large

**Doris Voitier**  
Member-at-Large

February 7, 2020

## MEMORANDUM

**TO:** Senator Patrick Page Cortez, Senate President  
Representative Clay Schexnayder, Speaker of the House  
Senator Cleo Fields, Chair, Senate Committee on Education  
Representative Raymond E. Garofalo, Chair, House Committee on Education

**FROM:** Shan N. Davis, Executive Director  
Board of Elementary and Secondary Education

**RE:** Summary of Petition for Rulemaking  
March 2019

On February 1, 2019, a petition for Rulemaking was received in the BESE office regarding, Bulletin 140, *Louisiana Early Childhood Care and Education Network*: §509. Performance Rating Calculations for Publicly-Funded Sites; §511. Performance Rating Calculations for Community Networks; §517. Data Verifications; and §521. Performance Profile Appeals Procedure. Please see the attached completed petition for rulemaking form submitted by the Natchitoches Parish Early Childhood Team. (Attachment 4)

Also attached is an agency response, submitted by the Louisiana Department of Education (LDE). (Attachment 5)

On motion of Mr. Roque, seconded by Ms. Edmonston, the Board:

1. received the Petition for Rulemaking regarding Bulletin 140, *Louisiana Early Childhood Care and Education Network*: §509. Performance Rating Calculations for Publicly-Funded Sites; §511. Performance Rating Calculations for Community Networks; §517. Data Verifications; and §521. Performance Profile Appeals Procedure, submitted by the Natchitoches Parish Early Childhood Team; and
2. received the Summary of Petition for Rulemaking and Agency Response regarding Bulletin 140, *Louisiana Early Childhood Care and Education Network*: §509. Performance Rating Calculations for Publicly-Funded Sites; §511. Performance Rating Calculations for Community Networks; §517. Data Verifications; and §521. Performance Profile Appeals Procedure, submitted by the Louisiana Department of Education.

**Shan N. Davis**  
Executive Director

On motion of Dr. Boffy, seconded by Ms. Holloway, the Board denied the request of the Petition for Rulemaking regarding Bulletin 140, *Louisiana Early Childhood Care and Education Network*: §509. Performance Rating Calculations for Publicly-Funded Sites; §511. Performance Rating Calculations for Community Networks; §517. Data Verifications; and §521. Performance Profile Appeals Procedure, submitted by the Natchitoches Parish Early Childhood Team.

SND:slr

# **Attachment 4**



# Petition for Rulemaking

for submission to the  
Louisiana State Board of Elementary  
and Secondary Education (BESE)

For BESE Office Use Only

Date received \_\_\_\_\_  
Received by \_\_\_\_\_  
Signature \_\_\_\_\_  
Date formally presented to BESE \_\_\_\_\_

I, Natchitoches Parish Early Childhood Team, a citizen of the state of Louisiana, whose signature is appended to this petition, hereby petition the Louisiana State Board of Elementary and Secondary Education (BESE), in accordance with the Louisiana Administrative Procedure Act, R.S. 49:953(C) and LAC 28:1.1309, regarding the following: (Use separate form for each bulletin)

Bulletin number: 140

Section number(s): 509, 511, 517 & 521

The petition requests that BESE: (Check all that apply)

Adopt new Rule(s)       Amend current Rule(s)       Repeal current Rule(s), as follows:

Justification for the requested revision(s): (Summarize content and impact of proposal)

See Attachments

Additional pages or a separate attachment are acceptable.

Petitioner's designee: (if applicable)

The petitioner designates Cassandra Cole as the representative of this petition.

Mailing Address 310 A Royal Street, Natchitoches LA 71457

Email (optional) ctcole@nat.k12.la.us Phone (optional) 318-352-8389

Petitioner information:

Name Natchitoches Parish Early Childhood Team

Mailing Address 310 A Royal Street, Natchitoches LA 71457

Email (optional) ctcole@nat.k12.la.us Phone (optional) 318-352-8389

Petitioner's signature Cassandra Cole Date 1/28/19

Designee's signature (if applicable) Cassandra Cole Date 1/28/19

The petition must be submitted via certified mail and addressed to:

Board of Elementary and Secondary Education  
Attn: Shan Davis, Executive Director  
P.O. Box 94064, Capitol Station  
Baton Rouge, LA 70804-9064

RECEIVED

FEB 01 2019

Board of Elementary  
and Secondary Education

The purpose of this letter is to request a revision in Bulletin 140. In accordance with R.S. 49:953(C)(1), any interested person may petition the BESE executive director in writing to adopt a new rule or amend or repeal an existing rule contained within the Louisiana Administrative Code, Title 28.

### **Background of Bulletin 140**

To help ensure more children are kindergarten ready, the Board of Elementary and Secondary Education established a unified statewide early childhood quality rating system, Bulletin 140: Louisiana Early Childhood Care and Education Network. All publicly-funded sites in Louisiana will receive Performance Profiles that includes a rating based on using the CLASS system of measures.

According to Bulletin 140

#### **§509. Performance Rating Calculations for Publicly-Funded Sites**

- C. The department shall compare the domain-level results from observations of classrooms conducted by the department's third-party contractors to the domain-level results from observations conducted by the community network for each publicly-funded site.
  1. In calculating the performance rating, the department shall replace domain-level results from classroom observations conducted by community networks with the domain-level results from observations conducted by the department's third-party contractors for any single domain in which the results differ by more than one point and shall calculate the performance rating using the replaced results.
  2. The department shall monitor the domain-level observation results of classroom observations conducted by community networks for each publicly-funded site, including by observer, and domain-level observation results conducted by the department's third-party contractor for each publicly-funded site.
    - a. Beginning with the 2016-2017 school year, if observation results conducted by community networks are consistently different by more than one point from observation results conducted by the department's third-party contractors, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractors, including those results that do not differ by at least one point.

#### **§511. Performance Rating Calculations for Community Networks**

- B. 2. a. In calculating the performance rating, the department shall replace domain-level results from classroom observations conducted by community network with the domain-level results from observations conducted by the department's third-party contractor for any single domain in which the results differ by more than one point and shall calculate the performance rating using the replaced results.
  - i. For every year after the 2015-2016 school year, if the observation results conducted by a community network are consistently different by more than one point from observation results conducted by the department's third-party contractor, the department may replace all of the community network's observation results for a

publicly-funded site with the results from the department's third-party contractor for that site, including those results that do not differ by at least one point.

ii. For every year after the 2015-2016 school year, if the observation results conducted by a community network are consistently different by more than one point from observation results conducted by the department's third-party contractor, the department may replace all of the community network's observation results for a publicly-funded site with the results from the department's third-party contractor for that site, including those results that do not differ by at least one point.

#### **§517. Data Verification**

B. The department shall provide lead agencies 30 calendar days for final review, correction, and verification of data for the performance profiles. For all subsequent years, the department shall provide lead agencies 10 calendar days for final review, correction, and verification of data for performance profiles.

5. The department shall review all data corrections and grant approval of those corrections that are proven valid.
6. The department may request additional documentation to support the validity of the changes.

#### **§521 Performance Profile Appeals Procedure**

- A. BESE shall have the authority to grant an appeal of a publicly-funded site or community network's performance profile.
- B. The appeal procedure shall be used when needed to address unforeseen and aberrant factors impacting publicly-funded sites and community networks or when needed to address issues that arise when the literal application of the accountability system regulations does not consider certain unforeseen and unusual circumstances. Failure to complete observations or use of third-party scores are not sufficient reasons for requesting an appeal. Data corrections shall not be grounds for an appeal or waiver request as all data corrections shall be made prior to the release of profiles regardless of the source of any errors.
- C. A publicly-funded site or community network may request an appeal of its performance profile by submitting a written request for an appeal to the department within 15 calendar days of the department's release of the publicly-funded site or community network's performance profile.
- D. All appeal requests shall clearly state the specific reasons for requesting the appeal and the reasons why the appeal should be granted and shall include any necessary supporting documentation.
- E. The lead agency shall submit a written request for appeal on behalf of a community network that wishes to appeal its performance profile.
- F. The department shall review all timely submitted appeal requests and make a recommendation to BESE during the first regularly scheduled BESE meeting following receipt of the appeal request, or during the second regularly scheduled BESE meeting if the appeal request is received within 10 working days of the first regularly scheduled BESE meeting. Within this interval, the department shall notify the publicly-funded site or

community network of its recommendation and allow the site or community network to respond in writing. The department's recommendation and the site or community network's response shall be submitted to BESE for final disposition

### **Problem with Bulletin 140**

### **§509. Performance Rating Calculations for Publicly-Funded Sites and §511. Performance Rating Calculations for Community Networks**

**To ensure local observations are accurate, Louisiana Department of Education (LDOE) has** partnered with the University of Louisiana Lafayette to conduct third party observations. Relying solely on third party to ensure local observations are accurate could potentially pose a variety of issues. **Third party observers conduct many CLASS observations over the course of a school year.** They spend a great deal of time traveling and observing, which can lead to extreme fatigue. Studies suggest that rater severity and fatigue are likely to play roles in rater reliability. Additionally, observers' drift could potentially cause third party observers to become inconsistent (scoring teachers too high or too low) in the criteria they use; ultimately, triggering a decline in the observers' reliability and fidelity to the system.

**Third party scores and feedback contradict themselves** – The classroom is given a rating in each area from 1 – 7. A low rating (1 – 2), indicates that something was rarely or never present or observed. A mid rating (3 – 5), indicates that something is sometimes or occasionally present or observed. A high rating (6 – 7), indicates that something is consistently or always present or observed. On 11/16/2018 third party observed a local school. According to her feedback, Concept Development was listed as the teacher's 2<sup>nd</sup> lowest dimension (scoring in the low-mid range, 3.00); however, according to the third party's notes: **"The teacher consistently used strategies which allowed the children to think about the how and why of learning rather than encouraging memorization of isolated facts.** For example, "How do you know the number five is missing?" "How can you help the baby?" and "Why do we need to bathe our animals?" In addition, the teacher asked open-ended questions, which led to longer discussions and encouraged thinking beyond perfunctory responses. For example, during free play she prepared centers that challenged the children's thinking and raised critical thinking questions, "How will you know what's wrong with my pet bunny?" "How much medicine does she need?" and "How often does she need three tablets (medicine)?" **During the observation, there were some opportunities for the children to be creative and generate their own ideas.** For example, at the art table the children used a variety of material to design a turkey's tail feather, but this activity did not provide the opportunity for the children to brainstorm, but at other times, the teacher stated or asked the children, "Tell me someone who can be in a family." "What can you do to help her?" and "What could we build for a family?" which allowed the children to brainstorm; thinking of ideas and solutions to support their given task. Across all four cycles, the teacher rarely attempted to link concepts from one activity or lesson to the next. For example, as she read the storybook, Harry the Dirty Dog she made connections of Harry being a part of a family to the previous learning of, what is a family and who can be in a family, "How many people were in Harry's family?" and "Who were people that were in Harry's family?" but these attempts were brief and did not extend throughout all four cycles. **At times, the teacher made learning meaningful by relating new concepts to the children's lives, but her efforts were not consistent throughout the observation.** For example, during cycles 3 and 4, the teacher and children discussed the makeup of a family, taking turns sharing what family members live in their house, and how many siblings and pets they have. In addition, as the children engaged in play centers, the teacher covered concepts and ideas that were a part of the children's everyday lives, such as how to bathe a dog, the name they call their grandparents, and how to care for a baby and their pets. For instance, "Who is taking care of your pet?" "If she's coughing, then what's wrong with her?" and "Do you call your grandpa, Pop-pop?"

**Third party scores replaced local “Double Coding/Shadow Scores”** - What is shadow scoring/double coding? Shadow scoring, also known as double coding is when two reliable CLASS observers conduct an observation at the same time in order to sharpen observation and coding skills. This mechanism helps maintain inter-rater reliability and fidelity to the system. In fall 2017 Natchitoches Parish Head Start educator was observed by two local (double coders) CLASS reliable observers. Same week, different day, a third party CLASS observer also conducted a CLASS observation on the same Natchitoches Parish Head Start educator. Scores were replaced by third party scores, in the Instructional Support domain, because the results differ by more than one point, (4.75 local scores compared to 2.67 third party scores).

#### **§517. Data Verification and §521. Performance Profile Appeals Procedure**

**Third party scores replaced local “Double Coding/Shadow Scores”** - May 2018, local CLASS reliable observers completed and submitted an appeal. The local observers provided a plethora of data to substantiate the teacher’s scores in Instructional Support. Despite observation factual data, the appeal was denied.

**Appeals can be lost in the shuffle** - 2017 – 2018 Natchitoches Parish submitted seven appeals before the due date. According to LDOE Early Childhood team, appeals were NEVER received. After Natchitoches Network contacted and verified appeals were submitted, LDOE Early Childhood team reviewed and denied 6 out of 7 appeals.

**Unaware of LDOE Early Childhood team appeal process** - The LDOE Early Childhood team has to review observation evidence and make determinations for 64 parishes in Louisiana. This review process is extremely time consuming and grueling. In addition, local stakeholders are unaware of LDOE appeal process. Is a rubric used? What constitute an approved appeal? If an appeal is denied, why?

In the past 3 years Natchitoches Parish Community Network team has submitted approximately eighteen appeals. 2015 – 2016 (no data found), 2016 – 2017 2 out of 11 appeals were approved and 2017 – 2018 1 out of 7 appeals were approved.

#### **CLASS reliable observers’ expectations:**

##### **The third party contractor expectations:**

- Conducts at least 1 practice shadow score observation (per age type trained) for each new observer;
- Provides a multi-day orientation for every observer at the beginning of the year;
- Conducts an end of year debriefing with every observer; and
- Encourages observers to become expert by having observers become reliable in Toddler and PreK CLASS, complete large numbers of observations on a frequent basis (The average third party observer is reliable on both tools and conducts 86 CLASS observations in a year).

**Currently, local CLASS observers are required to:**

- Be certified by Teachstone as a reliable observer (certificate on file with lead agency);
- Recertify YEARLY;
- Participate in on-going calibration exercises at least once per observation period;
- Pass a child care criminal background check that is on file with the lead agency; and
- Shadow score each observer at least once and at least 10% of all observations each observation period.

Additionally, in order to become a CLASS reliable observer, individuals must attend a two-day training and take and pass a test by independently coding five classroom video segments online. In order to remain a CLASS reliable observer, individuals must also take and pass a yearly recertification test. Note: Individuals have 3 attempts to achieve CLASS reliability.

**Potential Solutions:**

**The third party criteria for achieving reliability on the initial certification or yearly recertification is:**

- Maintain an observer reliability percentage with Teachstone of more than 90%.

It is proposed that LDOE increase the third party contractor initial and yearly scoring rigor, "Maintain an observer reliability percentage with Teachstone of more than > 90% on first (1<sup>st</sup>) attempt, "Score Report 1".

**The current local criteria for achieving reliability on the initial certification or yearly recertification are:**

- Score 80% of all codes within one of the master codes
- Score at least 2 out of 5 codes within one of the master codes within each dimension.

It is also proposed that LDOE give local observers the option to meet the rigorous requirements (See options 1 – 3 below). For those individuals who meet requirements listed below, individuals' scores will be average with third party scores, regardless if results differ by at least one point. If local observers fail to meet the rigorous requirements and individuals' scores differ by at least one point, the department may replace all or some of the community network's observation results.

**Option I:**

Average scores from local and third party if:

- Individuals meet the local criteria for achieving CLASS reliability listed above on first (1<sup>st</sup>) attempt, "Score Report 1" and
- Two reliable local CLASS observers conduct and observation at the same time (shadow scoring/double coding).

**Option II:**

Average scores from local and third party if:

- Individuals receive > 80%, on initial CLASS certification or yearly CLASS recertification, in ALL five classroom video segments, achieve an overall score of > 80%, and score at least 2 out of 5 codes within one of the master codes within each dimension on first (1<sup>st</sup>) attempt, “**Score Report 1**” and
- Two reliable local CLASS observers conduct and observation at the same time (shadow scoring/double coding).

**Option III:**

Average scores from local and third party if local observers:

- Individuals achieve an overall score of > 85% and score at least 2 out of 5 codes within one of the master codes within each dimension on first (1<sup>st</sup>) attempt, “**Score Report 1**” and
- Two reliable local CLASS observers conduct and observation at the same time (shadow scoring/double coding).

**Option IV:**

Third party will give local Early Childhood Lead Agency a list of sites and individuals per semester who would receive an external observation. Local observers will not be required to observe sites/individuals who will receive a third party observation.

**Summary:**

As detailed as Bulletin 140: Louisiana Early Childhood Care and Education Network may be, there are two major drawbacks: third party and the state appeal.

We, Natchitoches Parish Early Childhood Network, implore Louisiana Department of Education (LDOE) to review, study concerns and consider the proposed changes in Bulletin 140. Implementing some or vast majority of the proposed changes could potentially decrease the number of appeals and ensure greater accuracy.

# **Attachment 5**

**Summary of Petition for Rulemaking and Agency Response**  
**Requested Revisions to Bulletin 140, *Louisiana Early Childhood Care and Education Network***

**Background**

R.S. 49:953(C) and LAC 28, Part I, Section 1309, permit any interested person to petition the executive director of the State Board of Elementary and Secondary Education (BESE) executive director in writing to adopt a new rule or amend or repeal an existing rule contained within the Louisiana Administrative Code, Title 28. Within 90 days of receipt of the petition for rulemaking, the executive director, after consulting with the board's officers, shall either: 1. initiate procedures for processing a proposed regulation, along with the rulemaking procedures provided in R.S. 49:950 et seq., upon approval to proceed with rulemaking; or 2. shall notify the petitioner in writing, stating the reason(s) for the denial, upon a denial to proceed with rulemaking.

**Petition Received**

On February 1, 2019, the BESE executive director received a Petition for Rulemaking from Ms. Cassandra Cole, representing the Natchitoches Parish Early Childhood Team. Ms. Cole petitions requested BESE to amend Bulletin 140, *Louisiana Early Childhood Care and Education Network*, §509, §511, § 517, and §521. Specifically, Ms. Cole's concerns are related to performance rating calculations for publicly-funded sites and community networks, data verification, and performance profile appeals procedures.

**Agency Response to Petitioner**

***§509: Performance Rating Calculations for Publicly-Funded Sites and Community Networks:***

**Petitioner Assertion:** The Louisiana Department of Education (LDOE) has partnered with the University of Louisiana at Lafayette Picard Center ("Picard Center") to recruit and train third party observers, and conduct third party observations of all publicly-funded early childhood sites and community networks. Petitioner asserts that relying solely on the Picard Center to ensure local observations are accurate potentially poses a variety of issues. Specifically, petitioner asserts that third party observers may experience extreme fatigue attributable to time spent traveling to and observing sites. Petitioner cites studies which suggest that rater severity and fatigue are likely to play roles in rater reliability. Additionally, petitioner asserts that observers' drift could potentially cause third party observers to become inconsistent (scoring teachers too high or too low) in the criteria they use, ultimately triggering a decline in the observers' reliability and fidelity to the system.

**Agency Response:** Third party observers conduct no more than one observation per day. Some third party observers conduct observations nearly every day of the week and do not have another form of employment. Because third party observers are staffed in all of the regions of the state, observers typically have to commute no more than 30 miles per day. For rural sites, an observer may travel an hour (never more than 1.5 hours) for two to three observations per month. Observers are compensated for their travel time, and they build travel into their work day. There is no indication that the third party observers' workload causes fatigue.

The Picard Center conducts analysis to identify trends of severity/leniency and drift among third party observers. If and when observer severity or leniency is observed, the notes/score booklets are reviewed and the third party observer(s) in question participates in CLASS trainings, shadow scoring, and calibration activities. Observations conducted by observers identified as exhibiting drift, severity, or leniency are removed

**Petitioner Assertion:** Petitioner asserts that third party scores and feedback contradict themselves. For instance, a classroom is given a rating in each area from 1-7. A low rating (1-2), suggests that an indicator was rarely or never present or observed. A mid rating (3-5), suggests that an indicator is sometimes or occasionally present or observed. A high rating (6-7), suggests that an indicator is consistently or always present or observed. On

November 16, 2018, a third party observed a local school and according to the observer’s feedback, “Concept Development” was listed as the teacher’s second lowest dimension (scoring in the low-mid range, 3.00); however, according to the observer’s notes: “The teacher consistently used strategies which allowed the children to think about the how and why of learning rather than encouraging memorization of isolated facts... During the observation, there were some opportunities for the children to be creative and generate their own ideas... At times, the teacher made learning meaningful by relating new concepts to the children’s lives, but her efforts were not consistent throughout the observation.”

**Agency Response:** In this particular feedback form, the observer highlighted some of the indicators of “Concept Development” that the teacher did well and some that the teacher did not do well. Other examples of notes from that feedback form include, “Across all four cycles, the teacher rarely attempted to link concepts from one activity or lesson to the next,” and “At times, the teacher made learning meaningful by relating new concepts to the children’s lives, but her efforts were not consistent throughout the observation.” CLASS is a research-based tool that requires observers to script exactly what is observed and score based on those observations. The feedback forms have been developed as tools for teachers to improve their practice, and often include both positive and negative feedback. The feedback form is not, however, a full reflection of what was observed in the classroom.

In order to score in the high range (6-7), **all** of the indicators of Concept Development must be consistently observed or always present in the classroom. This feedback, which suggests that some of the indicators were consistently observed and some of the indicators were infrequently or never observed, is aligned to a mid-range score in this dimension.

**Petitioner Assertion:** Petitioner asserts that in fall 2017, a Natchitoches Parish Head Start educator was observed by two local CLASS-reliable observers. Later that week, a third party CLASS observer also conducted a CLASS observation on the same Natchitoches Parish Head Start educator. Petitioner asserts that the local “Instructional Support” domain scores were replaced by the third party observer scores, as the results differed by more than one point (4.75 points awarded by the local observes compared to 2.67 awarded by the third party).

**Agency Response:** Third party CLASS observers perform unannounced observations conducted by unbiased individuals who have no relationship with the sites they observe. Observations conducted by third party observers serve as a check on a system that is primarily based on local observations. The rate of third party replacement has decreased over time, as local observer reliability has improved.

For example, although more than 50 percent of classrooms receive a third party observation, fewer than 20 percent of local observations are impacted by third party replacement each year. The vast majority of observation data that contributes to the calculation of site performance rating is collected in local observations.

2017-2018 Observation Data	Pre-K	Toddler
# of Local Observations	7,318	3,200
# of Third Party Observations	2,617	1,070
# of Observations with 0 domains replaced	1,407	610
# of Observations with 1 domain replaced	855 (12 percent)	348 (11 percent)
# of Observations with 2 domains replaced	265 (4 percent)	112 (4 percent)
# of Observations with 3 domains replaced	90 (1 percent)	N/A

**Petitioner Assertion:** Petitioner asserts that the process by which third party scores are used to calculate performance ratings should be updated.

**Agency Response:** Third party observers serve as the gold standard for CLASS reliability in the state. They not only meet rigorous requirements to serve as an observer, but they also have no relationship with the sites they observe, ensuring that observations are objective and unbiased. Third party observations are always unannounced in order to observe the typical experience of children. Primarily, third party observations serve to ensure that the Department publishes accurate site level ratings that reflect the typical experience of children enrolled at the site.

Third party observations only replace 22 percent of the total number of domains observed by local observers, and the replacement that does take place often improves the final score (26 percent of the time).

Domains	Comparable Observations	Replaced Domains	Higher Local Score	Higher Third Party Score
Emotional Support	1069	144 (13 percent)	104 (72 percent)	40 (28 percent)
Classroom Organization	1069	154 (14 percent)	73 (47 percent)	81 (53 percent)
Instructional Support	1069	367 (34 percent)	301 (82 percent)	66 (18 percent)
Emotional & Behavioral Support	566	124 (22 percent)	96 (77 percent)	28 (23 percent)
Engaged Support for Learning	566	175 (31 percent)	137 (78 percent)	38 (22 percent)
Total	4339	964 (22 percent)	711 (74 percent)	253 (26 percent)

***§517: Data Verification and Performance Profile Appeals Procedures:***

**Petitioner Assertion:** Petitioner asserts that in May 2018, local CLASS reliable observers completed and submitted an appeal. The local observes, according to petitioner, supplied ample data to substantiate the teacher’s ‘Instructional Support’ score. However, the appeal was denied.

**Agency Response:** The LDOE investigates each appeal, reviews the notes and score booklets, and checks for any protocol violations. If there are no instances of protocol being violated during the third party observation and if the notes substantiate the scores provided, then the appeal is denied.

**Petitioner Assertion:** Petitioner asserts that in 2017-2018, Natchitoches Parish timely submitted seven appeals. Petitioner asserts that the LDOE Early Childhood Division claimed to not have received the appeals. Petitioner asserts that the Natchitoches Network contacted and verified that the appeals were submitted, after which the LDOE Early Childhood Division review denied six of the seven appeals submitted by Natchitoches Parish.

**Agency Response:** On the last day of appeal submission in 2018, the Natchitoches community network attempted to email 7 attachments, but the email was not received by LDOE staff. In October 2018, Natchitoches community

network staff inquired about their appeals, and LDOE staff indicated that the appeals were never received. Natchitoches staff was unable to forward the original email containing the 7 attachments because it was too large, and Amy Metoyer noted that she had to break the attachments into two separate emails as the email client was not allowing her to send all of the attachments at once. We believe the same issue led to the original email not being delivered. Once the appeals were received in October, all appeals were fully considered and processed, and formal determination letters were sent by email.

The LDOE is considering implementing processes to confirm receipt of appeals as a result of this situation.

**Petitioner Assertion:** Petitioner asserts local stakeholders are unaware of the process by which third party observations may be appealed.

**Agency Response:** Appeals to third party observations are infrequent. For example, out of a total of 3,750 third party observations conducted in 2017-2018, only 41 appeals were submitted by lead agencies, of which 7 (17 percent) were submitted by Natchitoches.

The LDOE Early Childhood team utilizes a set of guidelines to make determinations regarding the appeal of third party observations. However, the guidelines have not historically been made public. The guidelines document is available to view [here](#).

**Petitioner Assertion:** Petitioner asserts that in the past three years Natchitoches Parish Community Network team has submitted approximately eighteen appeals. For 2015-2016, no appeals data was found); in 2016-2017, two out of 11 appeals were approved; and in 2017-2018 one out of seven appeals were approved.

**Agency Response:** Of the 41 appeals submitted in 2017-2018, nine appeals were approved, or 22 percent of the total number of appeals. Appeals are approved if the third party protocol was violated protocol or, if upon review of the third party notes/score booklets, the observation notes do not align with the scores provided. Otherwise, third party scores are retained.

**Petitioner Assertion:** Petitioner proposes that the LDOE increase the third party criteria for achieving CLASS reliability on the initial certification or yearly certification.

**Agency Response:** Based on all available data, the LDOE believes its current CLASS certification process is producing sound results and the added restrictions proposed by the petitioner are not needed at this time. Third party observers are held to rigorous standards, which are detailed in the [Third Party Observation Guide](#).

The rigorous requirements for third party observers include:

- Third party observers shift sites and/or classrooms annually to prevent bias or drift
- Shadow scoring of at least 10 percent of observations monthly
- Rotate shadow score pairings based on observer reliability rankings and observation region
- 5percent of score sheets are randomly reviewed monthly to ensure accuracy
- Observers must attest to no conflict of interest with classrooms they observe on a monthly basis
- Participation in a multi-day orientation
- Maintains an observer reliability percentage with Teachstone of more than 90 percent

The LDOE will reevaluate CLASS certification process if it determines the current process is no longer producing sound results.

## **Conclusion**

Third party observers from the Picard Center at the University of Lafayette serve as the gold standard for CLASS reliability in the state. They meet rigorous requirements to serve as an observer, and they also have no relationship with the sites they observe, ensuring that observations are objective and unbiased. Third party observations are always unannounced in order to observe the typical experience of children. As backed by research, when third party observation domain scores differ by more than one point (on a seven point scale) from local observations conducted in the same

classroom and same semester, the Department uses the third party observation domain scores in lieu of local scores. While this process is in place statewide to ensure the objectivity and reliability of local observations, replacement occurs for less than 25 percent of domains checked by third party. This low replacement rate is a decline from years prior and is attributable to improvements in local observer reliability and a deepening understanding of the tool.

Bulletin 140 established an appeal process that allows lead agencies to appeal third party observations in certain cases, such as when the observation violated third party observation protocol. Appeals to third party observations are infrequent. For example, out of a total of 3,750 third party observations conducted in 2017-2018, only 41 appeals were submitted by lead agencies. When an appeal is received, the Department thoroughly investigates the appeal, reviews the notes and score booklets from the observations in question, and utilizes a rubric to determine whether the appeal is approved or denied. In 2017-2018, 9 appeals (22 percent) were approved.

This petition is primarily concerned with the third party observation system and the process used to receive and make a determination on appeals. The petition states that third party observers may not score reliably and that the process used to approve or deny appeals is not clear. The petition also requests that the policy require more rigorous reliability scores for third party observers.

The third party system allows for an unbiased check on the high stakes unified quality rating system for early childhood programs. The programs that participate in the statewide unified quality rating system are eligible to receive public funding to serve children, School Readiness Tax Credits, and publicly-funded supports. The Department utilizes the unified quality rating system to ensure accountability for how those public dollars are being spent. In addition to the training it provides to third party observers, the Picard Center reviews trends in third party observation data to identify any instances of observer severity, leniency, or drift, and randomly audits 5 percent of third party observation notes and score booklets to ensure accuracy and reliability. Furthermore, the appeal process that is in place allows local communities to dispute third party observations, and all appeals are thoroughly reviewed.

Although policy changes are not recommended, the Department will improve protocols at the advisement of the petitioner. For example, the petitioner attempted to submit an appeal and it was not received by the Department. Therefore, from now on, the Department will send a receipt of all appeals. Additionally, the Department has now published the rubric used to review appeals to provide transparency into the process. Lastly, the Department will explore options for increasing the requirements to become a third party observer for future years.