

NOTICE OF INTENT
BOARD OF ELEMENTARY AND SECONDARY EDUCATION

Improving Processes Related to Children with Exceptionalities
(LAC 28: XLIII.120, 152, 301, 322, 503, 504, and 530)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:XLIII in *Bulletin 1706 – Regulations for Implementation of the Children with Exceptionalities Act*. The proposed amendments improve special education policy and processes by facilitating the timeliness and consistency by which the LDOE and LEAs administer the Children with Exceptionalities Act. The changes include: requiring LDOE posting of LEA IDEA monitoring results; establishing response timelines for parent requests for special education evaluation and provision of draft IEPs; and including additional information when considering student placement due to violation of student code of conduct.

Title 28

EDUCATION

Part XLIII. Bulletin 1706— Regulations for Implementation of the Children with Exceptionalities Act

Subpart 1. Students with Disabilities

Chapter 1. State Eligibility

Subchapter A. FAPE Requirements

§120. Monitoring Activities

A. – B.2. ...

C. Beginning in fall 2024, redacted information regarding the results of monitoring activities and any necessary corrective action will be posted to the LDOE website.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2040 (October 2008), LR 50:

Subchapter J. State Complaint Procedures

§152. Formal Written Complaints Filing and Content Requirements

A. – B. ...

1. a statement that a public agency has violated a requirement of Part B of the IDEA or these regulations, regardless of whether the violation resulted in a loss of FAPE;

2. – 6. ...

C. The complaint shall allege a violation that occurred not more than two years prior to the date that the complaint is received in accordance with §151 - 153.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), repromulgated LR 36:1500 (July 2010), LR 50:

Chapter 3. Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements

Subchapter A. Parental Consent

§301. Parental Consent

A. – 3.b....

4. Within a reasonable amount of time, and not longer than fifteen business days, from receipt of a written parental request for a special education evaluation, an LEA shall either request parental consent for evaluation or provide prior written notice of refusal.

B. – D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2058 (October 2008), amended LR 36:1502 (July 2010), LR 50:

Subchapter B. Evaluations and Reevaluations

§322. Parent Participation

A. – E. ...

F. Parent Copy of Student's IEP. The public agency, upon parent request, shall give the parent a draft of the student's IEP at least three business days prior to an IEP meeting and shall provide the copy of the student's draft and final IEP at no cost to the parent.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2062 (October 2008), LR 50:

Chapter 5. Procedural Safeguards

Subchapter A. Due Process Procedures for Parents and Students

§503. Independent Educational Evaluation (IEE)

A. – B.1. ...

2. Within a reasonable amount of time, and not longer than fifteen business days, of a parent request for an independent educational evaluation at public expense, the public agency shall, without unnecessary delay, either:

B.2.a. – E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2068 (October 2008), LR 50:

§504. Prior Notice by the Public Agency; Content of Notice

A. Notice. Written notice that meets the requirements of Subsection B of this Section shall be given to the parents of a student with a disability a reasonable amount of time, and no less than fifteen business days, before the public agency:

A.1. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2069 (October 2008), LR 50:

Subchapter B. Discipline Procedures for Students with Disabilities

§530. Authority of School Personnel

A. – E. ...

1. Within 10 school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the student's IEP Team (as determined by the parent and the LEA) shall review all relevant information in the student's file, including the student's IEP, the student's disciplinary and behavioral history and records, any available medical information related to behavior, any teacher observations, and any relevant information provided by the parents to determine:

E.1.a. – I.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2076 (October 2008), amended LR 43:2494 (December 2017), LR 50:

COMPARISON DOCUMENT

TITLE 28

EDUCATION

Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act

Subpart 1. Students with Disabilities

Chapter 1. State Eligibility

Subchapter A. FAPE Requirements

§120. Monitoring Activities

A. – B.2. ...

C. Beginning in fall 2024, redacted information regarding the results of LEA monitoring activities and any necessary corrective action will be posted to the LDOE website.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2040 (October 2008), LR 50:

Subchapter J. State Complaint Procedures

§152. Formal Written Complaints Filing and Content Requirements

A. – B. ...

1. a statement that a public agency has violated a requirement of Part B of the IDEA or these regulations, regardless of whether the violation resulted in a loss of FAPE;

2. – 6. ...

C. The complaint shall allege a violation that occurred not more than ~~one~~ two years prior to the date that the complaint is received in accordance with §151 - 153.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2046 (October 2008), repromulgated LR 36:1500 (July 2010), LR 50:

Chapter 3. Evaluations, Eligibility Determinations, Individualized Education Programs, and Educational Placements

Subchapter A. Parental Consent

§301. Parental Consent

A. – 3.b. ...

4. Within a reasonable amount of time, and not longer than fifteen business days, from receipt of a written parental request for a special education evaluation, an LEA shall either request parental consent for evaluation or provide prior written notice of refusal.

B. – D.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2058 (October 2008), amended LR 36:1502 (July 2010), LR 50:

Subchapter D. Individualized Education Programs

§322. Parent Participation

A. – E. ...

F. Parent Copy of Student's IEP. The public agency, upon parent request, shall give the parent a draft of the student's IEP at least three business days prior to an IEP meeting and shall provide the copy of the student's draft and final IEP at no cost to the parent.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2062 (October 2008), LR 50:

Chapter 5. Procedural Safeguards

Subchapter A. Due Process Procedures for Parents and Students

§503. Independent Educational Evaluation (IEE)

A. – B.1. ...

2. Within a reasonable amount of time, and not longer than fifteen business days, of ~~if~~ a parent requests for an independent educational evaluation at public expense, the public agency shall, without unnecessary delay, either:

B.2.a. – E.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2068 (October 2008), LR 50:

§504. Prior Notice by the Public Agency; Content of Notice

A. Notice. Written notice that meets the requirements of Subsection B of this Section shall be given to the parents of a student with a disability a reasonable amount of time, and no less than fifteen business days, before the public agency:

A.1. – D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2069 (October 2008), LR 50:

Subchapter B. Discipline Procedures for Students with Disabilities

§530. Authority of School Personnel

A. – E. ...

1. Within 10 school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the LEA, the parent, and relevant members of the student's IEP Team (as determined by the parent and the LEA) shall review all relevant information in the student's file, including the student's IEP, the student's disciplinary and behavioral history and records, any available medical information related to behavior, any teacher observations, and any relevant information provided by the parents to determine:

E.1.a. – I.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S.17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2076 (October 2008), amended LR 43:2494 (December 2017), LR 50:

**BOARD OF ELEMENTARY AND SECONDARY EDUCATION
FAMILY IMPACT STATEMENT
(LA R.S. 49:953 and 972)**

Person Preparing Statement: Ashley Townsend
Phone: 225-342-3446
Division: Governmental, Administrative, and Public Affairs
Rule Title: Part XLIII. Bulletin 1706— Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.120, 152, 301, 322, 503, 504, and 530)

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.

PLEASE RESPOND (YES, NO, OR LACKS SUFFICIENT INFORMATION TO DETERMINE) TO THE FOLLOWING:

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?
Yes
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? Yes
6. Is the family or local government able to perform the function as contained in the proposed Rule? Yes

Signature of Contact Person: 

Date Submitted: 03/08/2024

**POVERTY IMPACT STATEMENT
(LA R.S. 49:973)**

Person Preparing Statement: Ashley Townsend
Phone: 225-342-3446
Division: Governmental, Administrative, and Public Affairs
Rule Title: Part XLIII. Bulletin 1706— Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.120, 152, 301, 322, 503, 504, and 530)

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 one hundred percent of the federal poverty line.

PLEASE RESPOND (YES, NO, OR LACKS SUFFICIENT INFORMATION TO DETERMINE) TO THE FOLLOWING:

1. Will the proposed Rule affect the household income, assets, and financial authority? No
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No
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

Signature of Contact Person: 

Date Submitted: 03/08/2024

Small Business Statement

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 noon, May 10, 2024, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, 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.

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing
Statement:

Ashley Townsend

Dept.: LA Department of Education
Board of Elementary &
Secondary Education

Phone: 225-342-3446

Office: Governmental, Admin., and Public Affairs

Return
Address:

P.O. Box 94064
Baton Rouge, LA

Rule
Title: Part XLIII. Bulletin 1706—
Regulations for Implementation of the Children with
Exceptionalities Act (LAC 28:XLIII.120, 152, 301, 322,
503, 504, and 530)

Date Rule
Takes Effect: Upon final adoption by BESE

SUMMARY

In accordance with Section 961 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

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

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. The change improves special education policy and processes by facilitating the timeliness and consistency by which the Louisiana Department of Education (LDOE) and local education agencies (LEA) administer the Children with Exceptionalities Act. The changes include: requiring LDOE posting of LEA IDEA monitoring results; establishing response timelines for parent requests for special education evaluation and provision of draft Individual Education Program; and including additional information when considering student placement due to violation of student code of conduct.

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

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL
BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

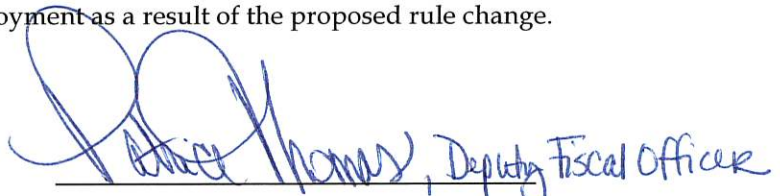
There are no anticipated costs or benefits to directly affected persons, small business, or nongovernmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition and employment as a result of the proposed rule change.



Signature of Agency Head or Designee



Legislative Fiscal Officer or Designee

Beth Scioneaux, Deputy Superintendent for Management and Finance

Typed Name & Title of Agency Head or Designee

4/04/2024

Date of Signature

4/04/2024

Date of Signature

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

The following information is required in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption, or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule changes to LAC 28:XLIII in *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities* improve special education policy and processes by facilitating the timeliness and consistency by which the LDOE and LEAs administer the Children with Exceptionalities Act. The changes include: requiring LDOE posting of LEA IDEA monitoring results; establishing response timelines for parent requests for special education evaluation and provision of draft IEPs; and including additional information when considering student placement due to violation of student code of conduct.

- B. Summarize the circumstances, which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

The proposed changes provide standard timelines and expectations regarding efficient provision of services by local school systems to students with exceptionalities and further promotes transparency regarding LDOE monitoring results.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session

- (1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No

- (2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

(b) _____ NO. If no, provide justification as to why this rule change should be published at this time

**FISCAL AND ECONOMIC IMPACT STATEMENT
WORKSHEET**

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?
The proposed rule change will have no effect on costs or savings to state agencies.

COSTS	FY 24	FY 25	FY 26
Personal Services	0	0	0
Operating Expenses	0	0	0
Professional Services	0	0	0
Other Charges	0	0	0
Equipment	0	0	0
Major Repairs & Constr.	0	0	0
TOTAL	0	0	0
POSITIONS (#)	0	0	0

2. Provide a narrative explanation of the costs or savings shown in "A. 1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

Not applicable.

3. Sources of funding for implementing the proposed rule or rule change.

Not applicable.

SOURCE	FY 24	FY 25	FY 26
State General Fund	0	0	0
Agency Self-Generated	0	0	0
Dedicated	0	0	0
Federal Funds	0	0	0
Other (Specify)	0	0	0
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

Not applicable.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

There is no anticipated impact to local governmental units as a result of the proposed rule change. A possibly indeterminable increase in printing costs could result if districts provide paper copies of IEPs to parents upon request.

2. Indicate the sources of funding of the local governmental unit, which will be affected by these costs or savings.

Not applicable.

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

The proposed rule change will not have a determinable effect on revenue collections of state or local governmental units.

REVENUE INCREASE/DECREASE	FY 24	FY 25	FY 26
State General Fund	0	0	0
Agency Self-Generated	0	0	0
Dedicated Funds*	0	0	0
Federal Funds	0	0	0
Local Funds	0	0	0
TOTAL	0	0	0

*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

Not applicable.

FISCAL AND ECONOMIC IMPACT STATEMENT WORKSHEET

III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS

- A. What persons, small businesses, or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The proposed rule change will not result in costs or economic benefits to directly affected persons, small businesses, or nongovernmental groups.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

Not applicable.

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

There is no anticipated impact on competition and employment as a result of the proposed rule change.