

NOTICE OF INTENT

Board of Elementary and Secondary Education

Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations
(LAC 28:CLXI.1515 and 1725).

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:CLXI in *Bulletin 137 – Louisiana Early Learning Center Licensing Regulations*. The aforementioned revision is in response to legislation enacted by the 2022 Regular Legislative Session and R.S. 17:407.50.2. The revision provides a requirement that centers develop a policy regarding the use of auto-injectable epinephrine, that they share that policy with families of all children at the site, and requires training for administration of auto-injectable epinephrine to a child in an early learning center who is believed to be having an anaphylactic reaction.

TITLE 28

EDUCATION

Bulletin 137 – Louisiana Early Learning Center Licensing Regulations

Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

Chapter 15. Minimum General Requirements and Standards

§1515. Child Records and Cumulative Files

A. – D. ...

E. An early learning center shall provide a written copy of all health-related policies established by the center, including policies regarding accidents, allergic reactions, fever, illness, immunizations, infection, and injuries, to the parent or guardian of each child attending or enrolled in the early learning center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 44:250 (February 2018), effective March 1, 2018, LR 47:1276 (September 2021), LR 49:

Chapter 17. Minimum Staffing Requirements and Standards

§1725. Medication Management Training

A. All staff members who administer medication shall have medication administration training that includes auto-injectable epinephrine.

B. ...

C. Training for auto-injectable epinephrine shall be completed every two years with an approved child care health consultant, registered nurse, licensed medical physician, a child care health consultant, an anaphylaxis training organization, or any other entity approved by the Louisiana Department of Health. Training for medication administration shall be completed every two years with an approved child care health consultant.

D. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1278 (September 2021), LR 49:

COMPARISON DOCUMENT

TITLE 28

EDUCATION

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E. An early learning center shall provide a written copy of all health-related policies established by the center, including policies regarding accidents, allergic reactions, fever, illness, immunizations, infection, administration of auto-injectable epinephrine to a child believed to be having an anaphylactic reaction, and injuries, to the parent or guardian of each child attending or enrolled in the early learning center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

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Chapter 17. Minimum Staffing Requirement and Standards

§1725. Medication Management Training

A. All staff members who administer medication shall have medication administration training that includes auto-injectable epinephrine.

B. ...

C. ~~Such training shall be completed every two years with an approved child care health consultant.~~ Training for auto-injectable epinephrine shall be completed every two years with an approved child care health consultant, registered nurse, licensed medical physician, a child care health consultant, an anaphylaxis training organization, or any other entity approved by the Louisiana Department of Health. Training for medication administration shall be completed every two years with an approved child care health consultant.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

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**STATE 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 CLXI. *Bulletin 137—Louisiana Early Learning Center Licensing Regulations* (LAC 28:CLXI.1515 and 1725)

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 TO THE FOLLOWING:

1. WILL THE PROPOSED RULE AFFECT THE STABILITY OF THE FAMILY?

- No
 Yes
 Lacks sufficient information to determine

2. WILL THE PROPOSED RULE AFFECT THE AUTHORITY AND RIGHTS OF PARENTS REGARDING THE EDUCATION AND SUPERVISION OF THEIR CHILDREN?

- No
 Yes
 Lacks sufficient information to determine.

3. WILL THE PROPOSED RULE AFFECT THE FUNCTIONING OF THE FAMILY?

- No
 Yes
 Lacks sufficient information to determine

4. WILL THE PROPOSED RULE AFFECT FAMILY EARNINGS AND FAMILY BUDGET?

- No
 Yes
 Lacks sufficient information to determine

5. WILL THE PROPOSED RULE AFFECT THE BEHAVIOR AND PERSONAL RESPONSIBILITY OF CHILDREN?

- No
 Yes
 Lacks sufficient information to determine

6. IS THE FAMILY OR A LOCAL GOVERNMENT ABLE TO PERFORM THE FUNCTION AS CONTAINED IN THE PROPOSED RULE?

- No
 Yes
 Lacks sufficient information to determine

Signature of Contact Person: _____

Date Submitted: 12/20/2022

**STATE BOARD OF ELEMENTARY AND SECONDARY EDUCATION
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 CLXI. *Bulletin 137— Louisiana Early Learning Center Licensing Regulations (LAC 28:CLXI.1515 and 1725)*

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 TO THE FOLLOWING:

1. WILL THE PROPOSED RULE AFFECT THE HOUSEHOLD INCOME, ASSETS, AND FINANCIAL SECURITY?

- No
- Yes
- Lacks sufficient information to determine

2. WILL THE PROPOSED RULE AFFECT EARLY CHILDHOOD DEVELOPMENT AND PRESCHOOL THROUGH POSTSECONDARY EDUCATION DEVELOPMENT?

- No
- Yes
- Lacks sufficient information to determine

3. WILL THE PROPOSED RULE AFFECT EMPLOYMENT AND WORKFORCE DEVELOPMENT?

- No
- Yes
- Lacks sufficient information to determine

4. WILL THE PROPOSED RULE AFFECT TAXES AND TAX CREDITS?

- No
- Yes
- Lacks sufficient information to determine

5. WILL THE PROPOSED RULE AFFECT CHILD AND DEPENDENT CARE, HOUSING, HEALTH CARE, NUTRITION, TRANSPORTATION, AND UTILITIES ASSISTANCE?

- No
- Yes
- Lacks sufficient information to determine

Signature of Contact Person: _____

Date Submitted: 12/20/2022

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, February 10, 2023, 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.

Shan N. Davis
Executive Director

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 Rule
Baton Rouge, LA Title: Part CLXI. *Bulletin 137 -*
Louisiana Early Learning Center Licensing
Regulations (LAC 28:CLXI.1515 and
1725)

Date Rule Takes Effect: Upon final adoption by BESE

SUMMARY

In accordance with Section 953 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)

The proposed rule revisions are in response to Act 335 of the 2022 Regular Legislative Session and R.S. 17:407.50.2. The revisions provide a requirement that early learning centers develop a policy regarding the use of auto-injectable epinephrine, that they share that policy with families of all children at the site, and requires training for administration of auto-injectable epinephrine to a child in an early learning center who is believed to be having an anaphylactic reaction. The proposed rule revisions require all staff members who administer medication complete training that includes auto-injectable epinephrine and that this training be completed every two years. There may be increased costs to local governmental units associated with the required training, but they are expected to be minimal. The cost of creating and communicating a new local policy in relation to the proposed rule revisions is also expected to be minimal.

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

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

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

The proposed rule revisions require all staff members who administer medication complete training that includes auto-injectable epinephrine and that this training be completed every two years. There may be increased costs to privately owned early learning centers associated with the required training, but they are expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule revisions will not have an effect on competition and employment.

Signature of Agency Head or Designee

Legislative Fiscal Officer or Designee

Beth Scioneaux, Deputy Superintendent for Management and Finance
Typed Name and Title of Agency Head or Designee

Date of Signature

LFO 10/04

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 revisions are in response to legislation enacted by the 2022 Regular Legislative Session and R.S. 17:407.50.2. The proposed rule revisions provide a requirement that early learning centers develop a policy regarding the use of auto-injectable epinephrine, that they share that policy with families of all children at the site, and require training for administration of auto-injectable epinephrine to a child in an early learning center who is believed to be having an anaphylactic reaction.

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

Act 335 of the 2022 Regular Legislative Session enacted R.S. 17:407.50.2 to require that early learning centers adopt and distribute a policy authorizing a trained early learning center employee to administer auto-injectable epinephrine to a child who the trained early learning center employee, in good faith, professionally believes is having an anaphylactic reaction. Also, Act 335 provides for training requirements required for implementation of this measure.

- 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 revisions will have no effect on costs or savings to state agencies.

COSTS	FY 23	FY 24	FY 25
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

A. 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.

There are no estimated costs or savings to state agencies as a result of the proposed rule revisions.

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

SOURCE	FY 23	FY 24	FY 25
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

A. 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

A. 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.

The proposed rule revisions require all staff members who administer medication complete training that includes auto-injectable epinephrine and that this training be completed every two years. There may be increased costs to local governmental units associated with the required training, but they are expected to be minimal. The cost of creating and communicating a local policy is expected to be minimal.

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

The proposed revisions will not impact sources of funding of local governmental units.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

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 revisions will not have an effect on revenue collections of state or local governmental units.

REVENUE INCREASE/DECREASE	FY 23	FY 24	FY 25
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.

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

A. What persons 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 revisions require all staff members who administer medication complete training that includes auto-injectable epinephrine and that this training be completed every two years. There may be increased costs to privately owned early learning centers associated with the required training, but they are expected to be minimal.

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.

The proposed rule revisions are not anticipated to have an effect on competition and employment.