

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

#### Bulletin 126—Charter Schools—Charter School Renewals and Virtual Charter School Attendance (LAC 28:CXXXIX.1505 and 3709)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:CXXXIX (Bulletin 126). Proposed amendments in §1505 clarify renewal criteria for BESE-authorized charter schools and ensure that the state superintendent of education considers student performance and/or growth data of neighboring and comparable schools when making a recommendation. Additionally, proposed amendments in §3709 outline student attendance policy requirements for state-authorized virtual charter schools, in accordance with Act 398 of the 2019 Regular Legislative Session.

#### Title 28

#### EDUCATION

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

#### Chapter 15. Charter Renewal

#### §1505. Eligibility for Renewal of BESE-Authorized Charter Schools (Formerly §1503.B)

A. - B.2.b.i. ...

C. When a charter school does not meet the criteria for renewal in the initial or subsequent charter term, BESE may renew the charter based upon the recommendation of the state superintendent. Such renewal may include conditions to be incorporated in the charter school contract and may require the charter operator to phase out operation of the school over the course of the renewal term. Prior to recommending such renewal, the following must be considered:

1. nonrenewal may require students to attend lower-performing schools;
2. available academic data, including student performance data and/or student growth data of neighboring and comparable schools, has been reviewed; and
3. efforts to find a new, high-quality operator for the charter school have failed.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010), amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), LR 44:238 (February 2018), LR 46:

#### Chapter 37. Virtual Charter Schools

#### §3709. Virtual Charter School Attendance

A. State-authorized virtual charter schools are required to enforce student attendance and address cases of student truancy and unexcused absences.

B. Virtual charter school operators must annually submit attendance policies to the department for approval to ensure compliance with applicable laws and regulations. The state superintendent will set forth the process for attendance policy submission.

C. Attendance policies for virtual schools must include:

1. a definition of the method in which attendance is measured for students enrolled at the school including, but not limited to, minimum expectations regarding active class participation, time spent connected online, and/or completion and submission of assignments;
2. a plan regarding the method in which student attendance will be recorded and enforced; and
3. a plan for providing orientation including the school attendance policy to enrolled students and parents or legal custodians, with such orientation occurring upon enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

# COMPARISON DOCUMENT

## Title 28

### EDUCATION

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

##### Chapter 15. Charter Renewal

##### **§1505. Eligibility for Renewal for of BESE-Authorized Charter Schools (Formerly §1503.B)**

A. - B.2.b.i. ...

C. ~~If, in the state superintendent's judgment, the non-renewal of a charter school that does not meet the criteria for renewal in its initial or subsequent charter term would likely require many students to attend lower performing schools, upon the state superintendent's recommendation, BESE may renew the charter. Such renewal may include conditions to be incorporated in the charter school contract that would require the charter operator to phase out operation of the school over the course of the renewal term. Prior to recommending such renewal, the state superintendent must demonstrate that efforts to find a new, high-quality operator for the school were unsuccessful. When a charter school does not meet the criteria for renewal in the initial or subsequent charter term, BESE may renew the charter based upon the recommendation of the state superintendent. Such renewal may include conditions to be incorporated in the charter school contract and may require the charter operator to phase out operation of the school over the course of the renewal term. Prior to recommending such renewal, the following must be considered:~~

1. nonrenewal may require students to attend lower-performing schools;
2. available academic data, including student performance data and/or student growth data of neighboring and comparable schools, has been reviewed; and
3. efforts to find a new, high-quality operator for the charter school have failed.

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AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:


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

Person Preparing Statement: Ryan Gremillion  
Phone: 225-342-1501  
Division: Policy Office  
Rule Title: Part CXXXIX. Bulletin 126—Charter Schools

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: 3/4/2020

**STATE BOARD OF ELEMENTARY AND SECONDARY EDUCATION  
POVERTY IMPACT STATEMENT  
(LA R.S. 49:973)**

**Person Preparing Statement:** Ryan Gremillion

**Phone:** 225-342-1501

**Division:** Policy Office

**Rule Title:** Part CXXXIX. Bulletin 126—Charter Schools

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: 3/4/2020

### **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, April 9, 2020, 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: Ryan Gremillion Dept.: LA Department of Education  
Board of Elementary & Secondary Education

Phone: (225) 342-1501 Office: Policy

Return Address: P. O. Box 94064 Rule Title: Part CXXXIX. Bulletin 126—Charter  
Baton Rouge, LA Charter Schools

Date Rule Takes Effect: Upon final Promulgation

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)

There may be adjustments in state Minimum Foundation (MFP) costs and an increase in costs for state-authorized virtual charter schools and local school districts as a result of the proposed rule changes requiring the adoption and enforcement of student attendance policies, pursuant to Act 398 of 2019.

The rule requires virtual charter schools to adopt an attendance policy which includes a definition of attendance based on, at a minimum, expectations regarding active class participation, time spent connected online, and/or completion and submission of assignments. To the extent that currently enrolled students do not meet the new attendance policy, it may result in students identified as truant and prompt certain procedural actions, in accordance with virtual charter school policy. State MFP allocations are driven by student counts taken on Feb. 1 and Oct. 1, therefore policies which affect student count could either increase or decrease state block grant funding for the virtual charter school.

There is an indeterminable impact to virtual charter schools. Costs associated with the development of such policies and orientation for enrolled students and parents are not expected to be material. However, because virtual charter schools serve students statewide, there could be increased costs to the extent the virtual charter school seeks assistance from local school districts for truancy enforcement actions.

Additionally, the proposed rule requires the review of certain performance and student growth data as part of the renewal of BESE-authorized charter schools. This codifies existing practice, thus there are no additional costs associated with this change.

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

In the event that virtual charter schools identify students as truant under their new attendance policies and this results in a decrease in student enrollment counts, there may be reductions to their allocations from the MFP. Potential impacts are indeterminable at this time.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed policy revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)



There are no estimated effects on competition and employment as a result of the proposed revisions.

*Beth Scioneaux*

Signature of Agency Head or Designee

*Evan Brassfield, Staff Director*

Legislative Fiscal Officer or Designee

Beth Scioneaux, Deputy Superintendent for Management and Finance

Typed Name and Title of Agency Head or Designee

*3/4/2020*

Date of Signature

*3/4/20*

Date of Signature

LFO 10/04

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 revisions clarify criteria for charter schools being considered for renewal. The current policy states that in the event that a school does not meet renewal criteria and when closing the school would likely require many students to attend lower-performing schools, the State Superintendent of Education can recommend that BESE renew the school charter contract. The proposed revisions ensure that the State Superintendent of Education considers student performance data and/or student growth data of neighboring and comparable schools when making the recommendation.

The proposed revisions also outline student attendance policy requirements for state-authorized virtual charter schools, in accordance with Act 398 of the 2019 Regular Legislative Session.

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

The proposed revisions clarify criteria for charter schools being considered for renewal. The current policy states that in the event that a school does not meet renewal criteria and when closing the school would likely require many students to attend lower-performing schools, the State Superintendent of Education can recommend that BESE renew the school charter contract. The proposed revisions ensure that the State Superintendent of Education considers student performance data and/or student growth data of neighboring and comparable schools when making the recommendation.

The proposed revisions also outline student attendance policy requirements for state-authorized virtual charter schools, in accordance with Act 398 of the 2019 Regular Legislative Session.

- 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.

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?

COSTS	FY19-20	FY20-21	FY21-22
PERSONAL SERVICES			
OPERATING EXPENSES	Indeterminable.		
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
<u>MAJOR REPAIR &amp; CONSTR.</u>			
<u>POSITIONS (#)</u>			
<b>TOTAL</b>	Indeterminable		

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.

To the extent that currently enrolled students do not meet the new attendance policy, it may result in students identified as truant and prompt certain procedural actions, in accordance with virtual charter school policy. State MFP allocations are driven by student counts taken on Feb. 1 and Oct. 1, therefore policies which affect student count could either increase or decrease state block grant funding for the virtual charter school.

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

SOURCE	FY20-21	FY21-22	FY22-23
STATE GENERAL FUND	Indeterminable		
AGENCY SELF-GENERATED	Indeterminable		
DEDICATED			
FEDERAL FUNDS	-0-	-0-	-0-
OTHER (Specify)			
<b>TOTAL</b>	Indeterminable		

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

Yes.

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.

Virtual charter schools may experience increased costs associated with the development of such policies, orientation for enrolled students and parents, and necessary enforcement actions. There may also be additional costs to local educational agencies and virtual charter schools as a result of truancy enforcement actions. This may include outreach efforts conducted by local school resource officers in response to students identified as truant. Potential costs are indeterminable at this time.

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

Virtual charter schools are funded with a mix of state MFP, local revenues and federal funds.

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 revisions will not impact revenue collections of state and local governmental units.

In the event that virtual charter schools identify students as truant under their new attendance policies and this results in a decrease in student enrollment counts, there may be reductions to their allocations from the MFP. Potential impacts are indeterminable at this time.

REVENUE INCREASE/DECREASE	FY20-21	FY21-22	FY22-23
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
<b>TOTAL</b>	Indeterminable		

\*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.

See above.

## FISCAL AND ECONOMIC IMPACT STATEMENT

### WORKSHEET

#### III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS 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 revisions will not result in costs and/or economic benefits to directly affected persons or non-governmental 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.

No impact on income is anticipated as a result of this rule change.

#### 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 revisions will not have an impact on competition and employment.