

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person
Preparing
Statement: Ashley Townsend Dept.: LA Department of Education
Board of Elementary &
Secondary Education (LDOE)

Phone: (225) 342-3446 Office: Governmental, Admin, Public Affairs

Return
Address: P. O. Box 94064 Rule
Baton Rouge, LA Title: Part XXXIX. *Bulletin 1566 – Pupil*
Progression Policies and Procedures
(LAC 28:XXXIX.705).

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 require third and fourth grade students who score below grade-level on an end-of-the-year LDOE-approved literacy assessment to receive a minimum of 30 hours of explicit literacy instruction during the summer. The proposed rule revisions will begin with the 2022-2023 school year and continue through the summer following the 2023-2024 school year. The cost of implementation will depend upon the number of students requiring interventions and the staffing decisions made by local schools and school districts.

Schools who do not have access to the end-of-the-year version of an LDOE-approved literacy assessment may use the Acadience screener, which is free of charge. The LDOE has also developed a diagnostic tool and intervention resources that may be used, at no charge, in planning and conducting the interventions required by this rule. Schools who choose to purchase additional screening or intervention resources may incur additional costs.

The current number of third and fourth grade students reading below grade level is not known; however, several metrics can be used to approximate the scope of students who could be impacted. According to spring 2022 LEAP data, approximately 30,812 third graders and 28,002 fourth graders scored below mastery on the English Language Arts portion of the test. The literacy screener measures how well a student can read, as opposed to the LEAP English Language Arts test, which measures other factors such as comprehension and text analysis. According to the fall 2021 reading report presented by the LDOE to BESE at the January 2022 meeting of the board, which reported on student performance measured by a literacy screener at the beginning of the 2021-2022 school year, 22,915 third graders, who comprise the 2022-2023 fourth grade cohort, and 23,881 second graders, who comprise the 2022-2023 third grade cohort, were reading below grade level.

Local costs will include compensating teachers to provide the required literacy instruction, school bus operators to provide transportation for students, and program administrators in accordance with local policy. These costs are indeterminable. Some districts and schools may elect to use funding provided to local districts through the Elementary and Secondary School Emergency Relief Fund (ESSER) to offset the cost of providing this instruction. Further, many of the students requiring interventions according to the proposed rule will qualify for the Steve Carter Literacy Program, which will provide up to \$1,000 per student to cover the costs of literacy tutoring. LDOE is contributing \$40 million from ESSER III funds over FY 22-23 and 23-24 to fund the Steve Carter Literacy Program. Additionally, the LDOE has compiled a tutoring vendor guide for districts who experience a shortage of qualified teachers and will provide additional guidance to assist in implementation.

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

There are no estimated effects 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)

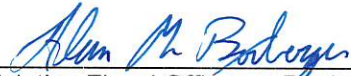
The earnings of teachers, school bus operators, and other school personnel who choose to participate in summer programming will increase as a result of this measure. Tutoring vendors may see an increase in contracted services as a result of this measure.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Teachers, school bus operators, and other school personnel who choose to participate in summer programming may experience increased opportunities for employment as a result of this measure. Tutoring vendors may see an increase in contracted services as a result of this measure.



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

11.9.22

Date of Signature
LFO 10/04

11/9/22

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 require third and fourth grade students who score below grade-level on the end-of-the-year LDOE-approved literacy assessment, to receive a minimum of 30 hours of explicit literacy instruction during the summer. The proposed rule revisions will begin the 2022-2023 school year and continue through the summer following the 2023-2024 school year.

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

The world-wide COVID pandemic has impacted student academic progress and resulted in interrupted school attendance and instruction. Learning loss has occurred that most greatly affected students during the formative academic development years in kindergarten and first grade. Those students are now in third and fourth grade and continue to measure below grade level in proportions higher than historically recorded, thus necessitating accelerated remediation and instruction.

- 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.

A total amount of expenditures is indeterminable, as the number of third and fourth grade students reading below grade level is currently unknown and local school districts will be charged with implementing plans as they see fit, at varying costs, within the minimum requirement of 30 hours of summer literacy instruction. Planned sources of funding include local district funds, ESSER funds, and Steve Carter Literacy Program resources.

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

The ability to read by the end of third grade has been shown to be a critical indicator of future academic success. Students currently in third and fourth grades experienced a lapse in key foundational instruction during the formative kindergarten and first grade years, resulting in greater academic gaps for these students. Addressing these gaps promptly and strategically is crucial to ensuring successful educational outcomes for this group of students.

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?

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

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.

The proposed rule revisions will not have an effect on costs or savings to state agencies beyond what can be managed with existing staff. LDOE will continue to provide resources for implementation, including diagnostic tools and targeted intervention materials, along with professional development for teachers and connections to high-quality literacy tutors. No additional costs to LDOE are anticipated.

3. 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

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.

The proposed rule revisions require third and fourth grade students who score below grade-level on an end-of-the-year LDOE-approved literacy assessment, to receive a minimum of 30 hours of explicit literacy instruction during the summer. The proposed rule revisions will begin with the 2022-2023 school year and continue through the summer following the 2023-2024 school year. The cost of implementation will depend upon the number of students requiring interventions and the staffing decisions made by local schools and school districts.

Schools who do not have access to the end-of-the-year version of an LDOE-approved literacy assessment may use the Acadience screener, which is free of charge. The LDOE has also developed a diagnostic tool and intervention resources that may be used, at no charge, in planning and conducting the interventions required by this rule. Schools who choose to purchase additional screening or intervention resources may incur additional costs.

The current number of third and fourth grade students reading below grade level is not known; however, several metrics can be used to approximate the scope of students who could be impacted. According to spring 2022 LEAP data, approximately 30,812 third graders and 28,002 fourth graders scored below mastery on the English Language Arts portion of the test. The literacy screener measures how well a student can read, as opposed to the LEAP English Language Arts

test, which measures other factors such as comprehension and text analysis. According to the fall 2021 reading report presented by the LDOE to BESE at the January 2022 meeting of the board, which reported on student performance measured by a literacy screener at the beginning of the 2021-2022 school year, 22,915 third graders, who comprise the 2022-2023 fourth grade cohort, and 23,881 second graders, who comprise the 2022-2023 third grade cohort, were reading below grade level.

Local costs will include compensating teachers to provide the required literacy instruction, school bus operators to provide transportation for students, and program administrators in accordance with local policy. These costs are indeterminable. ESSER funding budgeted for summer programs may be used by some districts and schools to offset the cost of providing this instruction. Further, many of the students requiring interventions according to the proposed rule will qualify for the Steve Carter Literacy Program, which will provide up to \$1,000 per student to cover the costs of literacy tutoring. LDOE is contributing \$40 million from ESSER III funds over FY 22-23 and 23-24 to fund the Steve Carter Literacy Program. Additionally, the LDOE has compiled a tutoring vendor guide for districts who experience a shortage of qualified teachers and will provide additional guidance to assist in implementation.

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

Potential sources of funding include local district funds, ESSER funds, and Steve Carter Literacy Program resources.

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?

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.

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

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.

Families may experience inconvenience due to the adjustment of summer plans to accommodate literacy interventions.

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.

The earnings of teachers, school bus operators, and other school personnel who choose to participate in summer programming will increase as a result of this measure. Tutoring vendors may see an increase in contracted services as a result of this measure.

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 earnings of teachers, school bus operators, and other school personnel who choose to participate in summer programming will increase as a result of this measure. Tutoring vendors may see an increase in contracted services as a result of this measure.

NOTICE OF INTENT

Board of Elementary and Secondary Education

Part XXXIX. *Bulletin 1566—Pupil Progression Policies and Procedures* (LAC 28:XXXIX.705).

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:XXXIX in *Bulletin 1566 – Pupil Progression Policies and Procedures*. The proposed revision requires third and fourth grade students that score below grade-level on the end-of-the-year LDOE-approved literacy assessment, to receive a minimum of 30 hours of explicit literacy instruction during the summer. The proposed revision will begin with the 2022-2023 school year and continue through the summer following the 2023-2024 school year.

Title 28

EDUCATION

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

§705. Supports for Students

A. - B.3. ...

C. Beginning with the 2022-2023 school year, and continuing through the summer following the 2023-2024 school year, any student enrolled in third or fourth grade and scoring below grade-level on the end-of-the-year LDOE-approved literacy assessment shall receive a minimum of 30 hours of explicit literacy instruction inclusive of targeted interventions during the summer. The literacy instruction shall be based on the science of reading.

1. No tuition or fees can be charged for the attendance of an eligible student, and transportation must be offered.

2. Summer learning shall be provided by an LDOE-approved tutoring vendor or by a teacher who is enrolled in or has completed the required foundational literacy skills course required per LAC 28:CXV.509 and who has achieved a rating of “effective: proficient” or greater on the most recent evaluation.

3. Students not participating in the required summer literacy interventions may be retained in the grade level during the subsequent school year. Such retention shall be included in each local pupil progression plan. A student qualifying for summer literacy interventions who fails to participate in the program but scored Basic or higher on the ELA portion of the most recent LEAP assessment may be promoted to the next grade level.

4. The LEA may waive the state policy for students scoring below grade-level on the end-of-the-year LDOE-approved literacy assessment for students with an IEP at the discretion of the IEP team.

5. Prior to retaining a student pursuant to this Section, a meeting of the SBLC committee may be called by the school or parent to determine whether retention or another option for additional student support is in the best interest of the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17.7, and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2005 (September 2010), amended LR 40:2533 (December 2014), LR 44:482 (March 2018), LR 44:1004 (June 2018), LR 46:18 (January 2020), LR 48:

COMPARISON DOCUMENT

Title 28

EDUCATION

Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2005 (September 2010), amended LR 40:2533 (December 2014), LR 44:482 (March 2018), LR 44:1004 (June 2018), LR 46:18 (January 2020), LR 48:


**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 XXXIX. *Bulletin 1566. Pupil Progression Policies and Procedures (LAC 28:XXXIX.705).*

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:

- I. 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: 10/17/2022

**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 XXXIX. Bulletin 1566 – Pupil Progression Policies and Procedures (LAC 28:XXXIX.705).

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: 10/17/2022

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, December 12, 2022, 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