

NOTICE OF INTENT

Board of Elementary and Secondary Education

Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities
(LAC 28:XCVII.505)

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:XCVII in *Bulletin 1530 – Louisiana's IEP Handbook for Students with Exceptionalities*. The proposed revisions add K-2 alternate assessment eligibility criteria pursuant to the federal Every Student Succeeds Act, which requires that alternate assessments are provided for students with significant cognitive disabilities, and that state education agencies must provide eligibility criteria for any statewide alternate assessments.

Title 28

EDUCATION

Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities

§505. Alternate Assessment Participation Criteria

A. Grade 3-11 Alternate Assessment includes LEAP Connect and ELPT Connect. To be eligible to participate in the alternate assessment, the IEP team must verify the student in grades 3-11 meets the criteria listed in this subsection.

1.-4.e.

...

f. student's disability according to Bulletin 1508, unless the disability excludes the student from having a significant cognitive disability including emotional disturbance, significant learning disability (SLD), or speech/language impairment;

4.g.-k.

...

B. K-2 Alternate Assessment Eligibility. Participation in the K-2 Alternate Assessment, including ELPT Connect, requires that students participate in annual screeners. The IEP team must annually determine eligibility, using qualitative and quantitative data, where available. The K-2 Alternate Assessment Participation Decision-Making Tool will identify student eligibility to participate in an alternate assessment if:

1. The student has a significant cognitive disability or multiple disabilities that significantly impact cognitive and adaptive functioning.

a. If the current evaluation of the student has a full-scale cognitive score, the existing cognitive score indicates cognitive functioning three or more standard deviations below the mean.

b. The K-2 Alternate Assessment Participation Decision-Making Tool column four indicates adaptive skill deficits in all three domains of conceptual, social, and practical that are characteristic of a most significant cognitive disability.

i. Conceptual Domain. Student requires significantly modified curriculum and instructions, is unable to clearly express wants and needs, experiences significant delays in receptive skills, and needs maximum assistance to communicate.

ii. Social Domain. Student often uses behaviors to communicate, may be nonverbal, may have limited communication skills in terms of vocabulary, and may use symbolic communication.

iii. Practical Domain. Student requires significant support and direct instruction across all activities of daily living and personal and health needs and is likely dependent upon others for these needs.

2. The student IEP goals and instruction are linked to Louisiana state content standards supported by the Connector Standards.

3. The student requires extensive, repeated, direct, individualized instruction and substantial support to achieve measurable gains in the grade level and age-appropriate curriculum.

a. Supports are not temporary or transient in nature.

b. Substantially adapted materials and individualized methods of accessing information in alternative ways are required.

4. LAC 28:XCVII.505.A.4 shall also apply to alternate assessment eligibility decisions for K-2 students.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 37:886 (March 2011), LR 41:535 (March 2015), LR 45:527 (April 2019), LR 45:1463 (October 2019).

COMPARISON DOCUMENT

Title 28

EDUCATION

Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities

§505. Alternate Assessment Participation Criteria

A. Grade 3-11 ~~LEAP~~ Alternate Assessment includes LEAP Connect and ELPT Connect (~~Alternate Assessment~~). To be eligible to participate in the alternate assessment ~~LEAP Alternate Assessment (alternate assessment)~~, the IEP team must verify the student (in grades 3-11) meets the criteria listed in this subsection.

1.-4.e. ...

f. student's disability according to Bulletin 1508, unless the disability excludes the student from having a significant cognitive disability including emotional disturbance, significant learning disability (SLD), or speech/language impairment;

4.g.-k. ...

B. K-2 Alternate Assessment Eligibility. Participation in the K-2 Alternate Assessment, including ELPT Connect, requires that students participate in annual screeners. The IEP team must annually determine eligibility, using qualitative and quantitative data, where available. The K-2 Alternate Assessment Participation Decision-Making Tool will identify student eligibility to participate in an alternate assessment if:

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2. The student IEP goals and instruction are linked to Louisiana state content standards supported by the Connector Standards.

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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: Policy Office
Rule Title: Part XCVII. Bulletin 1530 - Louisiana's IEP Handbook for Students with Exceptionalities (LAC 28:XCVII.505).

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: 9/12/2022

**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: Policy Office

Rule Title: Part XCVII. Bulletin 1530 - Louisiana's IEP Handbook for Students with Exceptionalities (LAC 28:XCVII.505).

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: 9/12/2022

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, November 10, 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

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: Policy

Return
Address: P. O. Box 94064 Rule
Baton Rouge, LA Title: Part XCVII. *Bulletin 1530 – Louisiana's*
Handbook for Students with
Exceptionalities
(LAC 28:XCVII.505).

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 revisions will not have an effect on costs or savings to state governmental units. The Louisiana Department of Education (LDE) has already developed a tool to determine eligibility to participate in alternate assessments.

There may be additional workload for Individual Education Program (IEP) teams to administer the alternate assessment eligibility tool; however, this workload is likely to be minimal.

The proposed revisions add K-2 alternate assessment eligibility criteria pursuant to the federal Elementary Student Succeeds Act (ESSA) which requires that alternate assessments are provided for students with significant cognitive disabilities, and that state education agencies must provide eligibility criteria for any statewide alternate assessments.

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

The proposed revisions 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 revisions will not result in costs and/or benefits to directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed 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 revisions add K-2 alternate assessment eligibility criteria pursuant to the federal Every Student Succeeds Act (ESSA) which requires that alternate assessments are provided for students with significant cognitive disabilities, and that state education agencies provide eligibility criteria for any statewide alternate assessments.

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

Beginning in winter 2022, the English Language Proficiency Test (ELPT) Connect for students with significant cognitive disabilities will be administered in grades K-12, necessitating alternative eligibility participation criteria for ELPT Connect and any future assessments administered to students in kindergarten through second grade.

- 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 revisions will not have an effect on costs or savings to state governmental units. The Louisiana Department of Education (LDE) has already developed a tool to determine eligibility to participate in alternate assessments.

There may be additional workload for Individual Education Program (IEP) teams to administer the alternate assessment eligibility tool; however, this workload is likely to be minimal.

COSTS	FY22-23	FY23-24	FY24-25
PERSONAL SERVICES			
OPERATING EXPENSES	-0-	-0-	-0-
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
<u>MAJOR REPAIR & CONSTR.</u>			
<u>POSITIONS (#)</u>			
TOTAL	-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.

N/A

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

SOURCE	FY22-23	FY23-24	FY24-25
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED			
FEDERAL FUNDS	-0-	-0-	-0-
OTHER (Specify)			
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?

N/A

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 may be additional workload for Individual Education Program (IEP) teams to administer the alternate assessment eligibility tool; however, this workload is likely 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 revisions will not have an effect on revenue collections of state or local governmental units.

REVENUE INCREASE/DECREASE	FY22-23	FY23-24	FY24-25
STATE GENERAL FUND			
AGENCY SELF GENERATED			
RESTRICTED FUNDS			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL			

*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.

N/A

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 revisions will not result in costs and/or benefits to directly affected persons, small businesses, 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.

N/A

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 effect on competition and employment.