

NOTICE OF INTENT
BOARD OF ELEMENTARY AND SECONDARY EDUCATION

Medication and Student Health
(LAC 28: CLVII.303, 305, 309, 313, 503, 701, 703, and 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 (BESE) proposes to amend LAC 28: CLVII in *Bulletin 135 – Health and Safety*. The proposed amendments align BESE policy with legislation enacted by the 2024 Regular Legislative Session. The revisions set forth the requirements for implementation of the following acts: Act 95, CPR/AED training for coaches; Act 161, practitioner provision of services; Act 378, emergency medications; Act 421, cardiac health information for student athletes; Act 460, medication administration; Act 674, COVID vaccine not required for enrollment or attendance; and Act 745, behavioral health services.

Title 28

EDUCATION

Part CLVII. Bulletin 135—Health and Safety

Chapter 3. Health

§303. Immunizations

A. – H.2. ...

I. No teacher, school employee, or administrator shall discriminate based on a student's vaccination status to determine eligibility or participation in any classroom, school, or extracurricular activity, including organizing seating arrangements or issuing surveys to students relative to vaccine status.

J. No person shall be required to receive a COVID-19 vaccine as a condition of initial enrollment or continuing attendance at any public school or facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:170, 17:170.2, and 17:170.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1029 (April 2013), amended LR 45:35 (January 2019), LR 48:2549 (October 2022), LR 51:

§305. Administration of Medication

A. – B. ...

1. Medication shall not be administered to any student without an order from a Louisiana, or any other state of the United States, licensed physician, dentist, or other authorized healthcare prescriber and it shall include the following information:

a. – F.1. ...

2. The school nurse shall be responsible for the training of non-medical personnel who have been designated by each principal to administer medications in each school. Except for training in administration of an opioid antagonist such as Naloxone, the training shall be at least six hours and include but not be limited to the following provisions:

a. – e. ...

3. No employee other than a registered nurse, licensed medical physician, an appropriate licensed health professional, or hired and trained unlicensed nursing personnel or unlicensed assistive personnel as defined by the Louisiana State Board of Nursing shall be required to perform an outside tracheostomy suctioning procedure on any child in an education setting. However, nothing shall prohibit an employee who volunteers to perform such procedure and who complies with the training and demonstration requirement from being allowed to perform such procedure on a child in an educational setting.

G. – I.8. ...

J. Each LEA shall adopt a policy regarding the administration of naloxone and other opioid antagonists that authorizes a school to maintain a supply of naloxone or other opioid antagonists and authorizes a school nurse or other school employee to administer naloxone or other opioid antagonists to any student or other person on local school grounds in the event of an actual or perceived opioid emergency.

1. Designated school employees other than school nurses shall receive training to address techniques on how to recognize signs of opioid-related overdose, standards and procedures for the storage and administration of naloxone or other opioid antagonist, and emergency follow-up procedures, including the requirement to summon emergency services either immediately before or immediately after administering naloxone or other opioid antagonist.

2. The following are not liable for damages in a civil action for injury, death, or loss to person or property that allegedly arises from an act or omission associated with administration or self-administration of naloxone or another opioid antagonist, unless the act or omission constitutes willful or wanton misconduct:

a. a public or nonpublic school;

b. a public or nonpublic school employee or volunteer;

c. a licensed health professional authorized to prescribe medication who personally furnishes or prescribes naloxone or other opioid antagonist; and

d. a trained organization and its personnel.

3. The LDOE shall develop and distribute the list of approved medications. Schools may maintain a stock of certain life-saving medications dispensed with a prescription issued in accordance with this Subsection and R.S. 17:436.1.M.(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.1, R.S. 17:436.(M)(1), and R.S. 17:436.1(J).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Board of Nursing, LR 39:1030 (April 2013), amended LR 39:2193 (August 2013), LR 51:

§309. Communicable Disease Control

A. – F. ...

G. Repealed.

H. – I.6.a.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10)(15), R.S. 17:170, R.S. 17:437, R.S. 17:1941, and 20 USCS 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1035 (April 2013), amended LR 41:371 (February 2015), LR 51:

§313. Non-Complex Health Procedures

A. – B.2.

3. Prescribed Procedures.

a. Following the training provided for in Paragraph 2, no noncomplex health procedure, except screenings and activities of daily living such as toileting/diapering, toilet training, oral/dental hygiene, oral feeding, lifting, and positioning may be performed unless prescribed in writing by a physician licensed to practice medicine in the state of Louisiana or any other state of the United States.

b. – F.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436(A)(2) and (E).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1037 (April 2013), LR 51:

Chapter 5. Sports Injury and Health Management Program

§503. Injury Management Program Protocol for Educational Training on Serious Sports Injuries

A. – B.1.

2. Each LEA shall distribute information relative to cardiac health including, at a minimum, the requirements that a student athlete who has or has had a cardiac health issue must meet before returning to participation in athletics.

a. The information will be provided to LEAs by LDOE.

b. Coaches, athletic trainers, athletic directors, or other appropriate school personnel shall collect parent signatures to verify receipt and understanding of the requirements.

C. Effective beginning with the 2025-2026 school year and subject to the availability of funds, any high school employee who serves as a coach for the school shall obtain and maintain certification in CPR, first aid, and AED use consistent with national evidence-based emergency cardiovascular care guidelines. This requirement is contingent upon the following:

1. The legislature appropriates funds in an amount necessary to implement the provisions of Subsection C of this Section; or

2. Grants or other private donations are made to the school to pay for the costs of implementing the provisions of Subsection C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.186.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:762 (April 2014), amended LR 47:451 (April 2021), LR 51:

Chapter 7. Behavioral Health Services

§701. Definitions

Applied Behavior Analysis Provider—a provider who is licensed, certified, or registered by the Louisiana Behavior Analyst Board and is in good standing to provide applied behavior analysis services.

Applied Behavior Analysis Services—the design, implementation, and evaluation of systematic instructional and environmental modifications by an applied behavior analysis provider to produce socially significant improvements in behavior as described in the Behavior Analyst Practice Act.

Behavioral Health Evaluation—process and analysis that includes, but is not limited to, diagnosis, type of intervention, length of intervention, identification of student goals, identification of impact of student behavior on a student's educational program, and recommendations for applied behavior analysis services.

Behavioral Health Provider—a provider who is licensed by the Louisiana Department of Health or a health profession licensing board and is in good standing to provide behavioral health services in Louisiana including but not limited to a psychiatrist, psychologist, medical psychologist, licensed specialist in school psychology, marriage and family therapist, professional counselor, clinical social worker, applied behavior analysis provider, or a behavioral health provider organization licensed to provide behavioral health service in Louisiana.

Behavioral Health Services—services that include but are not limited to individual psychotherapy, family psychotherapy, psychotropic medication management, community psychiatric support and treatment, crisis intervention, and medically necessary applied behavior analysis services.

Evaluator—a licensed psychiatrist, psychologist, medical psychologist, licensed specialist in school psychology, professional counselor, marriage and family therapist, clinical social worker, or applied behavior analysis provider who is certified by the respective board of examiners in Louisiana to provide necessary evaluations and who is not an employee of the public school governing authority or LDOE.

Independent Third-Party Payor—an individual who serves as a case reviewer for Medicaid or commercial insurers.

Medically Necessary Services—any services provided for diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease except for clinical trials that are described within the policy, not for experimental, investigational, or cosmetic purposes, and are within the generally accepted standards of medical care in the community, not solely for the convenience of the insured, the insured's family, or the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944 and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

§703. Behavioral Health Services for Students

A. A public school governing authority shall not prohibit a behavioral health service provider from providing medically necessary behavioral health services authorized by an independent third-party payor, including but not limited to Medicaid and commercial insurance, to a student at school during school hours if the student's parent or legal guardian requests such services from the provider.

B. Each public school governing authority shall adopt and make available to the public a policy to implement the provisions of this Section. The policy shall not create onerous requirements for behavioral health providers resulting in a delay or barrier to the provision of medically necessary services. The policy, at a minimum, shall include:

1. A behavioral health provider who provides services in accordance with this Section shall maintain general liability insurance coverage in an amount not less than one million dollars per occurrence and one million dollars per aggregate and provide a certificate of insurance naming the public school as the certificate holder.

2. No person who has been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C) shall be permitted to provide behavioral health services to a student at school during school hours. Prior to providing services in accordance with this Section, a behavioral health provider shall complete a criminal background check (CBC) conducted by the Louisiana State Police and shall pay all related costs. However, applied behavior analysis providers who are licensed, certified, or registered by the Louisiana Behavior Analyst Board, who provide documentation of having passed a CBC conducted by the Louisiana State Police and FBI, and who are in good standing with the board shall not be required by the public school governing authority to complete an additional CBC in order to begin providing behavioral health services at a school.

3. Behavioral health services shall be permitted during school hours if the student's parent or legal guardian presents a behavioral health evaluation performed by an evaluator as well as an assessment and authorized treatment plan performed by a behavioral health provider chosen by the parent or legal guardian, and the evaluation indicates that the services are necessary during school hours to assist the student with behavioral health impairments associated with a medical diagnosis that the evaluator determines are interfering with a student's ability to thrive in the educational setting.

4. A behavioral health evaluation or assessment presented by the parent or legal guardian of a student shall not be construed as an independent educational evaluation for the purposes of determining if a student meets the criteria established for eligibility for special education and related services.

5. A public school governing authority shall not prohibit a behavioral health evaluation, assessment, or authorized treatment plan from being performed on school property in order to establish medical necessity or deliver medically necessary services. Behavioral health services may be provided during any part of the school day, including any and all instructional time in English, reading, mathematics, and science. The school administrator and service provider shall work collaboratively to create a consistent schedule that meets the medical needs of the student and complies with the provider's ethical code of conduct. In developing the student's plan, consideration shall include impacts on the school's operations and a student's testing schedule. If the parties cannot agree, then the parties shall engage in a dispute resolution process set forth by LDOE in accordance with §705 of this Chapter.

6. The public school governing authority shall not enter into a contract or an exclusive agreement with a behavioral health provider that prohibits the parent or legal guardian from choosing the behavioral health provider for the student. The provisions of this Subparagraph shall not impair any extant contract on the effective date of this Section, or the renewal thereof.

7. The cost of all behavioral health services provided to a student pursuant to this Section shall be the sole responsibility of the parent or legal guardian, individually or through an applicable health insurance policy, Medicaid, or other third-party payor, other than the public school governing authority, that has made funds available for the payment for the services provided.

8. While on a school campus, a behavioral service provider shall comply with, and abide by, the terms of any IEP, IAP, Section 504 Plan, Behavior Management Plan, or Individual Health Plan applicable to a student who is a patient of the provider. The services furnished by a provider shall be incorporated into a written treatment plan applicable to the student.

9. The parent or legal guardian of a student receiving services from a behavioral service provider shall be required to execute a "consent to release information form" between the provider and the public school governing authority.

10. The public school governing authority shall establish reporting requirements for a behavioral health provider related to the student's progress and student and school safety concerns as related to the student's educational program.

11. The public school governing authority may establish sanctions, including termination of a provider's authorization to provide services on any school campus, against a behavioral health provider for failure to comply with the policies established by the public school governing authority.

C. The failure of a public school governing authority to adopt a policy shall not be cause to prohibit the provision of behavioral health services to a student in accordance with this Section.

D. Any behavioral health evaluation, assessment, or treatment plan administered by a public school governing authority shall not supersede the behavioral health evaluation, assessment, or treatment plan provided by an independent behavioral health provider of a student's parent's choosing.

E. Any applied behavior analysis services provided by the public school governing authority in accordance with this Section shall be delivered either by behavioral health providers licensed, certified, or registered by the Louisiana Behavior Analysis Board in accordance with R.S. 37:3701 *et seq.* or behavioral health providers providing services in accordance with R.S. 37:3715.

F. Nothing in this Chapter shall be construed to supersede any of the following:

1. the authority of the student's IEP team or Section 504 committee to determine appropriate services for a student in accordance with applicable federal and state law;

2. the provisions of the Behavioral Health Service Provider Licensing Law or any regulation promulgated by the Louisiana Department of Health pursuant to such law; or

3. provisions of the Behavior Analyst Practice Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944 and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

§705. Behavioral Health Service Complaint Procedures

A. Complaint Procedures. The LDOE shall establish written procedures for the purpose of resolving any complaint which is filed by an affected individual alleging that a public school governing authority has violated a requirement of R.S. 17:173 or this Chapter and that meets the requirements herein by providing for the filing of a formal written complaint with the LDOE.

B. The written complaint shall include the following information:

1. a statement that a public school governing authority has violated a requirement of R.S. 17:173 or this Chapter;

2. the facts on which the statement is based;

3. the signature and contact information for the complainant;
 4. if alleging violations relevant to a specific student,
 - a. the name and address of the residence of the student;
 - b. the name of the school the student is attending;
 - c. in the case of a homeless child or youth, as identified in Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)) available contact information for the student and the name of the school the student is attending;
 - d. a description of the nature of the problem of the student, including facts relating to the problem; and
 - e. a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.
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- C. The complaint shall allege a violation that occurred not more than one year prior to the date that the complaint is received by LDOE.
- D. Upon receipt of a valid complaint, the LDOE shall review the allegations as submitted and shall provide written notice to the public school governing authority serving the student, including the following:
1. a request for specific information needed by LDOE to conduct its independent investigation of the complaint;
 2. reasonable timelines established for providing such information to the LDOE; and
 3. a statement of the public school governing authority's opportunity to respond to the complaint, including the opportunity to provide a proposal to resolve the complaint, at their discretion.
- E. The LDOE shall provide written notice to the complainant including a statement of the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.
- F. The LDOE shall review all relevant information and make an independent determination as to whether the public school governing authority is in violation of R.S. 17:173 or this Chapter and, if such violation is determined, the actions by which the public school governing authority will be required to correct the violation.
- G. Final Decision. Within 60 days of the LDOE receipt of a complaint, the LDOE shall issue a written decision to the complainant and the public school governing authority that addresses each remaining allegation of the complaint and contains:
1. findings of fact and conclusions; and
 2. the reason for the LDOE final decision.
- H. Time Extension. The LDOE shall permit an extension of the 60-day time limit only if:
1. Exceptional circumstances exist with respect to a particular complaint; or
 2. The parent, individual, or organization and the public school governing authority involved agree to extend the time to engage in negotiations or other means of non-adversarial dispute resolution.
- I. The decision of the LDOE in accordance with this Section is a final decision and is not subject to appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944 and R.S. 17:173.
 HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

COMPARISON DOCUMENT

TITLE 28
EDUCATION
 Part CLVII. Bulletin 135—Health and Safety
 Chapter 3. Health

§303. Immunizations

A – H.2. ...

I. No teacher, school employee, or administrator shall discriminate based on a student's vaccination status to determine eligibility or participation in any classroom, school, or extracurricular activity, including organizing seating arrangements or issuing surveys to students relative to vaccine status.

J. No person shall be required to receive a COVID-19 vaccine as a condition of initial enrollment or continuing attendance at any public school or facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:170, 17:170.2, and 17:170.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1029 (April 2013), amended LR 45:35 (January 2019), LR 48:2549 (October 2022), LR 51:

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A – B. ...

1. Medication shall not be administered to any student without an order from a Louisiana, or any other state of the United States or an adjacent state, licensed physician, dentist, or other authorized healthcare prescriber and it shall include the following information:

a. – F.1. ...

2. The school nurse shall be responsible for the training of non-medical personnel who have been designated by each principal to administer medications in each school. The Except for training in administration of an opioid antagonist such as Naloxone, the training shall be at least six hours and include but not be limited to the following provisions:

a. – e. ...

3. No employee other than a registered nurse, licensed medical physician, an appropriate licensed health professional, or hired and trained unlicensed nursing personnel or unlicensed assistive personnel as defined by the Louisiana State Board of Nursing shall be required to perform an outside tracheostomy tracheotomy suctioning procedure on any child in an education setting. However, nothing shall prohibit an employee who volunteers to perform such procedure and who complies with the training and demonstration requirement from being allowed to perform such procedure on a child in an educational setting.

G. – I.8. ...

J. Each LEA shall adopt a policy regarding the administration of naloxone and other opioid antagonists that authorizes a school to maintain a supply of naloxone or other opioid antagonists and authorizes a school nurse or other school employee to administer naloxone or other opioid antagonists to any student or other person on local school grounds in the event of an actual or perceived opioid emergency.

1. Designated school employees other than school nurses shall receive training to address techniques on how to recognize signs of opioid-related overdose, standards and procedures for the storage and administration of naloxone or other opioid antagonist, and emergency follow-up procedures, including the requirement to summon emergency services either immediately before or immediately after administering naloxone or other opioid antagonist.

2. The following are not liable for damages in a civil action for injury, death, or loss to person or property that allegedly arises from an act or omission associated with administration or self-administration of naloxone or another opioid antagonist, unless the act or omission constitutes willful or wanton misconduct:

a. a public or nonpublic school;

b. a public or nonpublic school employee or volunteer;

c. a licensed health professional authorized to prescribe medication who personally furnishes or prescribes naloxone or other opioid antagonist; and

d. a trained organization and its personnel.

3. The LDOE shall develop and distribute the list of approved medications. Schools may maintain a stock of certain life-saving medications dispensed with a prescription issued in accordance with this Subsection and R.S. 17:436.1.M.(1).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436.1, R.S. 17:436.(M)(1), and R.S. 17:436.1(J).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Board of Nursing, LR 39:1030 (April 2013), amended LR 39:2193 (August 2013), LR 51:

§309. Communicable Disease Control

A. – F. ...

G. Repealed.

H. – I.6.a. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10)(15), R.S. 17:170, R.S. 17:437, R.S. 17:1941, and 20 USCS 1232.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1035 (April 2013), amended LR 41:371 (February 2015), LR 51:

§313. Non-Complex Health Procedures

A. – B.2. ...

3. Prescribed Procedures.

a. Following the training provided for in Paragraph 2, no noncomplex health procedure, except screenings and activities of daily living such as toileting/diapering, toilet training, oral/dental hygiene, oral feeding, lifting, and positioning may be performed unless prescribed in writing by a physician licensed to practice medicine in the state of Louisiana or any other state of the United States or an adjacent state.

b. – F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:436(A)(2) and (E).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1037 (April 2013), LR 51:

Chapter 5. Sports Injury and Health Management Program Rules for Serious Sports Injuries

§503. Injury Management Program Protocol for Educational Training on Serious Sports Injuries

A. – B.1. ...

2. Each LEA shall distribute information relative to cardiac health including, at a minimum, the requirements that a student athlete who has or has had a cardiac health issue must meet before returning to participation in athletics.

a. The information will be provided to LEAs by LDOE.

b. Coaches, athletic trainers, athletic directors, or other appropriate school personnel shall collect parent signatures to verify receipt and understanding of the requirements.

C. Effective beginning with the 2025-2026 school year and subject to the availability of funds, any high school employee who serves as a coach for the school shall obtain and maintain certification in CPR, first aid, and AED use consistent with national evidence-based emergency cardiovascular care guidelines. This requirement is contingent upon the following:

1. The legislature appropriates funds in an amount necessary to implement the provisions of Subsection C of this Section; or

2. Grants or other private donations are made to the school to pay for the costs of implementing the provisions of Subsection C of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:1299.186.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 40:762 (April 2014), amended LR 47:451 (April 2021), LR 51:

Chapter 7. Behavioral Health Services

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Behavioral Health Provider—a provider who is licensed by the Louisiana Department of Health or a health profession licensing board and is in good standing to provide behavioral health services in Louisiana including but not limited to a psychiatrist, psychologist, medical psychologist, licensed specialist in school psychology, marriage and family therapist, professional counselor, clinical social worker, applied behavior analysis provider, or a behavioral health provider organization licensed to provide behavioral health service in Louisiana.

Behavioral Health Services—services that include but are not limited to individual psychotherapy, family psychotherapy, psychotropic medication management, community psychiatric support and treatment, crisis intervention, and medically necessary applied behavior analysis services.

Evaluator—a licensed psychiatrist, psychologist, medical psychologist, licensed specialist in school psychology, professional counselor, marriage and family therapist, clinical social worker, or applied behavior analysis provider who is certified by the respective board of examiners in Louisiana to provide necessary evaluations and who is not an employee of the public school governing authority or LDOE.

Independent Third-Party Payor—an individual who serves as a case reviewer for Medicaid or commercial insurers.

Medically Necessary Services—any services provided for diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease except for clinical trials that are described within the policy, not for experimental, investigational, or cosmetic purposes, and are within the generally accepted standards of medical care in the community, not solely for the convenience of the insured, the insured's family, or the provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944 and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

§703. Behavioral Health Services for Students

A. A public school governing authority shall not prohibit a behavioral health service provider from providing medically necessary behavioral health services authorized by an independent third-party payor, including but not limited to Medicaid and commercial insurance, to a student at school during school hours if the student's parent or legal guardian requests such services from the provider.

B. Each public school governing authority shall adopt and make available to the public a policy to implement the provisions of this Section. The policy shall not create onerous requirements for behavioral health providers resulting in a delay or barrier to the provision of medically necessary services. The policy, at a minimum, shall include:

1. A behavioral health provider who provides services in accordance with this Section shall maintain general liability insurance coverage in an amount not less than one million dollars per occurrence and one million dollars per aggregate and provide a certificate of insurance naming the public school as the certificate holder.

2. No person who has been convicted of or pled nolo contendere to a crime listed in R.S. 15:587.1(C) shall be permitted to provide behavioral health services to a student at school during school hours. Prior to providing services in accordance with this Section, a behavioral health provider shall complete a criminal background check (CBC) conducted by the Louisiana State Police and shall pay all related costs. However, applied behavior analysis providers who are licensed, certified, or registered by the Louisiana Behavior Analyst Board, who provide documentation of having passed a CBC conducted by the Louisiana State Police and FBI, and who are in good standing with the board shall not be required by the public school governing authority to complete an additional CBC in order to begin providing behavioral health services at a school.

3. Behavioral health services shall be permitted during school hours if the student's parent or legal guardian presents a behavioral health evaluation performed by an evaluator as well as an assessment and authorized treatment plan performed by a behavioral health provider chosen by the parent or legal guardian, and the evaluation indicates that the services are necessary during school hours to assist the student with behavioral health impairments associated with a medical diagnosis that the evaluator determines are interfering with a student's ability to thrive in the educational setting.

4. A behavioral health evaluation or assessment presented by the parent or legal guardian of a student shall not be construed as an independent educational evaluation for the purposes of determining if a student meets the criteria established for eligibility for special education and related services.

5. A public school governing authority shall not prohibit a behavioral health evaluation, assessment, or authorized treatment plan from being performed on school property in order to establish medical necessity or deliver medically necessary services. Behavioral health services may be provided during any part of the school day, including any and all instructional time in English, reading, mathematics, and science. The school administrator and service provider shall work collaboratively to create a consistent schedule that meets the medical needs of the student and complies with the provider's ethical code of conduct. In developing the student's plan, consideration shall include impacts on the school's operations and a student's testing schedule. If the parties cannot agree, then the parties shall engage in a dispute resolution process set forth by LDOE in accordance with §705 of this Chapter.

6. The public school governing authority shall not enter into a contract or an exclusive agreement with a behavioral health provider that prohibits the parent or legal guardian from choosing the behavioral health provider for the student. The provisions of this Subparagraph shall not impair any extant contract on the effective date of this Section, or the renewal thereof.

7. The cost of all behavioral health services provided to a student pursuant to this Section shall be the sole responsibility of the parent or legal guardian, individually or through an applicable health insurance policy, Medicaid, or other third-party payor, other than the public school governing authority, that has made funds available for the payment for the services provided.

8. While on a school campus, a behavioral service provider shall comply with, and abide by, the terms of any IEP, IAP, Section 504 Plan, Behavior Management Plan, or Individual Health Plan applicable to a student who is a patient of the provider. The services furnished by a provider shall be incorporated into a written treatment plan applicable to the student.

9. The parent or legal guardian of a student receiving services from a behavioral service provider shall be required to execute a "consent to release information form" between the provider and the public school governing authority.

10. The public school governing authority shall establish reporting requirements for a behavioral health provider related to the student's progress and student and school safety concerns as related to the student's educational program.

11. The public school governing authority may establish sanctions, including termination of a provider's authorization to provide services on any school campus, against a behavioral health provider for failure to comply with the policies established by the public school governing authority.

C. The failure of a public school governing authority to adopt a policy shall not be cause to prohibit the provision of behavioral health services to a student in accordance with this Section.

D. Any behavioral health evaluation, assessment, or treatment plan administered by a public school governing authority shall not supersede the behavioral health evaluation, assessment, or treatment plan provided by an independent behavioral health provider of a student's parent's choosing.

E. Any applied behavior analysis services provided by the public school governing authority in accordance with this Section shall be delivered either by behavioral health providers licensed, certified, or registered by the Louisiana Behavior Analysis Board in accordance with R.S. 37:3701 et seq. or behavioral health providers providing services in accordance with R.S. 37:3715.

F. Nothing in this Chapter shall be construed to supersede any of the following:

1. the authority of the student's IEP team or Section 504 committee to determine appropriate services for a student in accordance with applicable federal and state law;

2. the provisions of the Behavioral Health Service Provider Licensing Law or any regulation promulgated by the Louisiana Department of Health pursuant to such law; or

3. provisions of the Behavior Analyst Practice Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944 and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

§705. Behavioral Health Service Complaint Procedures

A. Complaint Procedures. The LDOE shall establish written procedures for the purpose of resolving any complaint which is filed by an affected individual alleging that a public school governing authority has violated a requirement of R.S. 17:173 or this Chapter and that meets the requirements herein by providing for the filing of a formal written complaint with the LDOE.

B. The written complaint shall include the following information:

1. a statement that a public school governing authority has violated a requirement of R.S. 17:173 or this Chapter;

2. the facts on which the statement is based;

3. the signature and contact information for the complainant;

4. if alleging violations relevant to a specific student,

a. the name and address of the residence of the student;

b. the name of the school the student is attending;

c. in the case of a homeless child or youth, as identified in Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)) available contact information for the student and the name of the school the student is attending;

d. a description of the nature of the problem of the student, including facts relating to the problem; and

e. a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

5. a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

C. The complaint shall allege a violation that occurred not more than one year prior to the date that the complaint is received by LDOE.

D. Upon receipt of a valid complaint, the LDOE shall review the allegations as submitted and shall provide written notice to the public school governing authority serving the student, including the following:

1. a request for specific information needed by LDOE to conduct its independent investigation of the complaint;

2. reasonable timelines established for providing such information to the LDOE; and

3. a statement of the public school governing authority's opportunity to respond to the complaint, including the opportunity to provide a proposal to resolve the complaint, at their discretion.

E. The LDOE shall provide written notice to the complainant including a statement of the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

F. The LDOE shall review all relevant information and make an independent determination as to whether the public school governing authority is in violation of R.S. 17:173 or this Chapter and, if such violation is determined, the actions by which the public school governing authority will be required to correct the violation.

G. Final Decision. Within 60 days of the LDOE receipt of a complaint, the LDOE shall issue a written decision to the complainant and the public school governing authority that addresses each remaining allegation of the complaint and contains:

1. findings of fact and conclusions; and

2. the reason for the LDOE final decision.

H. Time Extension. The LDOE shall permit an extension of the 60-day time limit only if:

1. Exceptional circumstances exist with respect to a particular complaint; or

2. The parent, individual, or organization and the public school governing authority involved agree to extend the time to engage in negotiations or other means of non-adversarial dispute resolution.

I. The decision of the LDOE in accordance with this Section is a final decision and is not subject to appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944 and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

**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
Part CLVII Bulletin 135 – Health and Safety (LAC 28: CLVII.303, 305, 309, 313, 503, 701, 703, and
Rule Title: 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 (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? No
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? No
6. Is the family or local government able to perform the function as contained in the proposed Rule? Yes

Signature of Contact Person: Ashley Townsend
Date Submitted: 08/23/2024

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

Person Preparing

Statement: Ashley Townsend
Phone: 225.342.3446
Division: Governmental, Administrative, and Public Affairs
Part CLVII Bulletin 135 – Health and Safety (LAC 28: CLVII.303, 305, 309, 313, 503, 701, 703, and
Rule Title: 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 (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: Ashley Townsend
Date Submitted: 08/23/2024

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, November 10, 2024, to Tavares Walker, 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 Tavares Walker, 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	Department:	Louisiana Department of Education, Board of Elementary and Secondary Education
Phone:	225.342.3446	Office:	Governmental, Administrative, and Public Affairs
Return Address:	P.O. Box 94064 Baton Rouge, LA 70804	Rule Title:	Part CLVII in <i>Bulletin 135 – Health and Safety</i> (LAC 28: CLVII.303, 305, 309, 313, 503, 701, 703, and 705)
		Date Rule Takes Effect:	Upon final adoption by BESE

SUMMARY
(Use complete sentences)

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 possible implementation costs to state or local governmental units due to the proposed rule change. The proposed rule change updates training requirements for high school coaches and mandates that such employees maintain certification in cardiopulmonary resuscitation (CPR), first aid, and automated external defibrillator (AED) use; however, these requirements are subject to appropriation or donation and will not result in an automatic increase in local fund expenditures. The proposed rule change is in response to acts of the 2024 RS. The change expands licensed practitioners recognized for medication orders, prohibits the requirement of a COVID vaccine in educational settings, prohibits discrimination based on vaccine status, incorporates emergency medication standards, and establishes expectations for the provision of behavioral health services for students. Further revisions require distribution of cardiac health information to student athletes and their parents and adds training and certification requirements for high school coaches, subject to appropriation or donation.

Depending on whether a system selects to train regarding naloxone or another opioid antagonist, free training materials are available online. The required cardiac health information has already been created and disseminated to schools using existing Louisiana Department of Education (LDOE) resources and in collaboration with the Louisiana Department of Health.

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, unless a local education system receives a donation to cover the cost of training coaching staff in CPR, first aid, and AED use. The extent to which donations will be offered and accepted is indeterminable.

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

There are potential anticipated costs or benefits to directly affected persons, small business, or nongovernmental groups as a result of the proposed rule change to the extent that credentialing entities that provide the training and certification may see increased scheduling of services and additional receipt of the associated fees. Such an increase would be dependent upon receipt by the local system of appropriated or donated funds to cover training costs.

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.



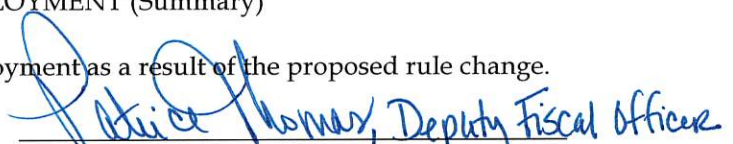
 Signature of Head or Designee

Beth Scioneaux, Deputy Superintendent for Management and Finance

 Typed Name & Title of Agency Head or Designee

10. 8. 24

 Date of Signature



 Legislative Fiscal Officer or Designee

10/09/2024

 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 change amends LAC 28 CLVII in *Bulletin 135 - Health and Safety*, and sets forth the requirements for implementation of the following acts of the 2024 RS: Act 95, CPR/AED training for coaches; Act 161, practitioner provision of services; Act 378, emergency medications; Act 421, cardiac health information for student athletes; Act 460, medication administration; Act 674, COVID vaccine not required for enrollment or attendance; and Act 745, behavioral health services.

- 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 rule change is in response to acts of the 2024 RS. The change expands licensed practitioners recognized for medication orders, prohibits the requirement of a COVID vaccine in educational settings, prohibits discrimination based on vaccine status, incorporates emergency medication standards, and establishes expectations for the provision of behavioral health services for students. Further revisions require distribution of cardiac health information to student athletes and their parents and adds training and certification requirements for high school coaches, subject to appropriation or donation.

- 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.

The proposed rule change may result in an increase in the expenditure of state funds should an appropriation occur to fund Act 95 of the 2024 RS. If the cost of the training is covered by donations, or if no appropriation occurs, no additional funding will be needed.

- (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?

COSTS	FY 25	FY 26	FY 27
PERSONAL SERVICES	\$0	\$0	\$0
OPERATING EXPENSES	\$0	\$0	\$0
PROFESSIONAL SERVICES	See Below	See Below	See Below
OTHER CHARGES	\$0	\$0	\$0
EQUIPMENT	\$0	\$0	\$0
MAJOR REPAIR & CONSTR.	\$0	\$0	\$0
TOTAL	See Below	See Below	See Below
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 change may result in an increase in the expenditure of state funds should an appropriation occur to fund Act 95 of the 2024 RS which requires, upon the availability of funding, the training of high school coaches in CPR, First Aid, and AED use.

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

SOURCE	FY 25	FY 26	FY 27
STATE GENERAL FUND	See Below	See Below	See Below
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$0	\$0	\$0
FEDERAL FUNDS	\$0	\$0	\$0
OTHER (Specify)	\$0	\$0	\$0
TOTAL	See Below	See Below	See Below

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 are possible implementation costs to local governmental units due to the proposed rule change. The proposed rule change updates training requirements for high school coaches and mandates that such employees maintain certification in CPR, first aid, and AED use; however,, the requirement is subject to appropriation or donation and will not result in an automatic increase in local expenditures.

Depending on whether a system selects to train regarding naloxone or another opioid antagonist, free training materials are available online. The required cardiac health information has already been created and disseminated to schools using existing LDOE resources and in collaboration with the Louisiana Department of Health. Other components of the proposed rule are not expected to result in increased costs or savings.

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

The local governmental unit may receive donations from charitable organizations to fund the cost of the training for coaches.

**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?

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

REVENUE INCREASE/DECREASE	FY 25	FY 26	FY 27
STATE GENERAL FUND	\$0	\$0	\$0
AGENCY SELF-GENERATED	\$0	\$0	\$0
DEDICATED	\$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 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.

There are potential anticipated costs or benefits to directly affected persons, small business, or nongovernmental groups as a result of the proposed rule change to the extent that credentialing entities that provide the training and certification may see increased scheduling of services and additional receipt of the associated fees. Such an increase would be dependent upon receipt by the local system of appropriated or donated funds to cover training costs.

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.