

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network
Academic Approval; Accountability; and Coordinated Enrollment
(LAC 28:CLXVII.901, 903, 905, 907, and 909)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:CLXVII, *Bulletin 140—Louisiana Early Childhood Care and Education Network*. Louisiana Revised Statute 17:407.30 establishes the Louisiana Early Childhood Education Fund as a special treasury fund administered by the Board of Elementary and Secondary Education (BESE). The statute provides that the fund shall be credited with appropriations, as well as public and private grants or donations, and will be awarded to local entities for early childhood care and education. The proposed revisions to Bulletin 140, *Louisiana Early Childhood Care and Education Network*, align BESE policy with R.S. 17:407.30.

Title 28

EDUCATION

Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 9. Louisiana Early Childhood Education Fund

§901. Purpose, Scope, and Effect

A. The purpose of this Chapter is to set forth the rules and regulations necessary to implement the provisions of R.S. 17:407.30, which creates the Louisiana early childhood education fund (the “fund”) for the purpose of funding certain early childhood education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

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

§903. Eligibility Requirements

A. Subject to legislative appropriation, monies in the fund will be awarded annually to local entities approved by the board.

B. Fund awards are reserved for projects that expand the number of early childhood care and education quality seats for families eligible for the Child Care Assistance Program (CCAP) in type III early learning centers with a performance rating of “proficient” or above and at least one classroom with children age 15 months or younger.

C. Entities eligible to receive fund awards include, but are not limited to, BESE-approved local community networks and early learning centers.

D. Each applicant seeking an award must establish eligibility criteria for the early childhood care and education quality seats financed by local funds that serve as the match for the award. At a minimum, eligibility criteria established by each applicant must contain the following assurances:

1. that only those children whose family income makes them *economically disadvantaged*, as defined in Title 28, Part I, Chapter 11 of the *Louisiana Administrative Code*, shall be eligible for the early childhood care and education quality seats outlined in the applicant’s proposal; and

2. that at least 70 percent of any funding awarded to the applicant will be used to directly fund additional early childhood care and education seats in type III early learning centers with a performance rating of “proficient” or above and at least one classroom with children age 15 months or younger;

3. remaining awarded funding will be used to:

a. expand seats through improved quality; and

b. pay for audit costs required per §909 of this Chapter.

E. Funding is intended to supplement existing funding sources and not to be used to supplant existing state or federal funds.

F. Prior to the start of the 2022-2023 school year, the Early Childhood Care and Education Advisory Council shall review this Chapter and, as necessary, recommend revisions to BESE based on learnings from the first two years of the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

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

§905. Application Process

A. Local entities must submit an application to be considered for the allocation of these funds.

1. The application must define local needs using current data and define objective criteria through which the seats will be awarded.

B. Local entities seeking funding for qualifying projects must secure non-state and non-federal matching funds at a rate of at least one-to-one prior to the awarding of monies from the fund.

1. Eligible sources of a match for funds include locally-generated funds, including donations from private entities and allocations from local governmental entities.

2. School readiness tax credits will not be considered an eligible source of match for purposes of receiving funding pursuant to this Chapter.

C. The application submitted by the local entity must be accompanied by appropriate documentation as identified by the department to substantiate the existence of the match funding. Supporting documentation may include but is not limited to, letter(s) of donation from the donor to the local entity demonstrating the intent to donate a specified amount of funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

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

§907. Award Process

A. A rubric will be used to identify award recipients, and the following criteria will be considered when recommending award recipients for approval to BESE:

1. Ready Start network status;
2. child care assistance program waitlist for the local entity's community network;
3. child poverty rates in the local entity's community network;
4. child care needs in terms of the economic development needs of the parish where the center is located; and
5. the extent to which the proposal increases the availability of high quality learning center seats statewide.

B. All applicants whose submission are selected to receive a funding award must submit documentation to the department to substantiate the existence and possession of the match funds including, but not limited to:

1. copy of check(s) received totaling the required match plus receipt for bank deposit into local entity's bank account;
2. copy of bank statement which lists the deposit for the required match; or
3. copy of bank statement with balance totaling greater than the required match.

C. The total of all awards in any given year may not exceed the amount legislatively appropriated to the fund.

D. If a balance remains in the fund after every qualifying project under §903.B of this Chapter has been funded, then the board may consider awarding funds for the exclusive use of type III early learning centers to provide quality care for children who are ages birth through two and whose parents are eligible for the Child Care Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

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

§909. Audit of Awards

A. A participating local entity must submit to the department an independent limited scope audit conducted by a certified public accountant who has been approved by the legislative auditor. Audit procedures will be developed by the department and will be limited in scope to those records necessary to substantiate that the funding received was utilized in accordance with program requirements and the approved application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

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

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

Person Preparing Statement: Ryan Gremillion
Phone: 225-342-1501
Division: Policy Office
Rule Title: Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.

PLEASE RESPOND TO THE FOLLOWING:

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

- No
 Yes
 Lacks sufficient information to determine

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

- No
 Yes
 Lacks sufficient information to determine.

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

- No
 Yes
 Lacks sufficient information to determine

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

- No
 Yes
 Lacks sufficient information to determine

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

- No
 Yes
 Lacks sufficient information to determine

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

- No
 Yes
 Lacks sufficient information to determine

Signature of Contact Person: _____

Date Submitted: _____

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

Person Preparing Statement: Ryan Gremillion

Phone: 225-342-1501

Division: Policy Office

Rule Title: Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

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: _____

Small Business Statement

The impact of the proposed Rule on small businesses as defined in the Regulatory Flexibility Act has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the effect on the staffing level requirements or qualifications required to provide the same level of service;
2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, February 9, 2019, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person

Preparing

Statement: Ryan Gremillion

Dept.: LA Department of Education
Board of Elementary &
Secondary Education

Phone: (225) 342-1501

Office: Policy

Return

Address: P. O. Box 94064
Baton Rouge, LA

Rule

Title: Part CLXVII. Bulletin 140—Louisiana Early
Childhood Care and Education Network

Date Rule

Takes Effect: Upon final Promulgation

SUMMARY

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS
(Summary)

There will be an increase in expenditures of the Louisiana Department of Education as a result of the proposed changes which implement Acts 353 of 2017 and 223 of 2019. The rule establishes the parameters for grant awards and spending requirements out of the Early Childhood Education Fund. The extent of spending is indeterminable; however, at this point in time, there are no monies in the Fund.

There may be an increase in expenditures of local governmental entities which choose to provide funding as part of the match requirement to apply for allocations out of the fund.

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

Local governmental entities which provide match funding may be eligible to receive allocations from the fund, to be distributed to Type III early learning centers for additional slots, quality improvements, and audit expenses.

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

There may be an increase in revenue for Type III early learning centers which qualify for allocations out of the "Louisiana Early Childhood Education Fund." The fund is designed to match non-state, non-federal funds that expand the number of early childhood care and education quality slots for families who are eligible for the Child Care Assistance Program that have at least one classroom with children age fifteen months or younger.

Families who gain an early childhood care and education quality slot as a result of a newly-funded project will benefit from the proposed revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment is unknown. Increased funding to early learning centers may increase the demand for qualified teachers and other support staff; however, any potential impacts cannot be determined at this time.

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

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).

Louisiana Revised Statute 17:407.30 establishes the Louisiana Early Childhood Education Fund as a special treasury fund administered by the Board of Elementary and Secondary Education (BESE). The statute provides that the fund shall be credited with appropriations, as well as public and private grants or donations, and will be awarded to local entities for early childhood care and education. The proposed revisions to Bulletin 140, *Louisiana Early Childhood Care and Education Network*, align BESE policy with R.S. 17:407.30.

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

The proposed revisions are a result of Louisiana Revised Statute 17:407.30, which establishes the Louisiana Early Childhood Education Fund as a special treasury fund administered by the Board of Elementary and Secondary Education (BESE).

- 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.

Yes

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.

Future expenditures will increase in the event funds are deposited into and appropriated out of the Fund. There are no funds in the Early Childhood Education Fund at this point in time.

WORKSHEET

I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

There will be an increase in expenditures of the Louisiana Department of Education as a result of the proposed changes which implement of Acts 353 of 2017 and 223 of 2019. The rule establishes the parameters for grant awards and spending requirements out of the Early Childhood Education Fund. The extent of spending is indeterminable; however, at this point in time, there are no monies in the Fund.

COSTS	FY19-20	FY20-21	FY21-22
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.

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

SOURCE	FY19-20	FY20-21	FY21-22
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?

No funding is available at this point in time.

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 revisions will not impact local governmental units, including adjustments in workload and paperwork requirements.

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

Early childhood program funding will not be affected by the proposed action.

STATEMENT

WORKSHEET

II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS

A. What increase (decrease) in revenues can be anticipated from the proposed action?

The proposed revisions will not impact state and local revenue collections.

REVENUE INCREASE/DECREASE	FY19-20	FY20-21	FY21-22
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
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.

See above.

FISCAL AND ECONOMIC IMPACT STATEMENT

WORKSHEET

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

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

There may be an increase in revenue for Type III early learning centers which qualify for allocations out of the the "Louisiana Early Childhood Education Fund." The fund is designed to match non-state, non-federal funds spent on projects that expand the number of early childhood care and education quality slots for families who are eligible for the Child Care Assistance Program that have at least one classroom with children age fifteen months or younger. The impact of the proposed revisions on revenue collections of state or local governmental units is indeterminable at this time.

Families who gain an early childhood care and education quality slot as a result of a newly-funded project will benefit from the proposed revisions.

- 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.

See Above.

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 effect on competition and employment is unknown. Increased funding to early learning centers may increase the demand for qualified teachers and other support staff; however, any potential impacts cannot be determined at this time.

COMPARISON DOCUMENT

Title 28

EDUCATION

Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 9. Louisiana Early Childhood Education Fund

§901. Purpose, Scope, and Effect

A. The purpose of this Chapter is to set forth the rules and regulations necessary to implement the provisions of R.S. 17:407.30, which creates the Louisiana early childhood education fund (the “fund”) for the purpose of funding certain early childhood education programs.

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C. Entities eligible to receive fund awards include, but are not limited to, BESE-approved local community networks and early learning centers.

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1. that only those children whose family income makes them *economically disadvantaged*, as defined in Title 28, Part I, Chapter 11 of the *Louisiana Administrative Code*, shall be eligible for the early childhood care and education quality seats outlined in the applicant’s proposal; and

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a. expand seats through improved quality; and

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F. Prior to the start of the 2022-2023 school year, the Early Childhood Care and Education Advisory Council shall review this Chapter and, as necessary, recommend revisions to BESE based on learnings from the first two years of the fund.

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