

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(Part CXXXIX.4101).

Bulletin 741—Louisiana Handbook for School Administrators
(Part CXV.401).

Bulletin 741—Louisiana Handbook for Nonpublic School Administrators
(Part LXXIX.1105).

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28:CXXXIX (Bulletin 126), LAC 28:CXV (Bulletin 741), and LAC 28:LXXIX (Bulletin 741 – Nonpublic). The aforementioned revisions enable Local Education Agencies (LEAs) to continue to implement, for the duration of 168 JBE2020, the current policy regarding Phase 3 minimum requirements, pertaining to the reopening school facilities for the 2020-2021 school year.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 41. Reopening School Facilities for the 2020-2021 School Year

§4101. Purpose and Background

A. – C. ...

D. By executive proclamation, the governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

1. Subsequent to the reopening of school facilities for the 2020-2021 school year and in coordination with requirements outlined in 168 JBE 2020, LEAs may continue to follow the Phase 3 minimum requirements for reopening school facilities as set forth in this Chapter.

E. In the event the governor orders, via executive proclamation, a reversion or progression from one phase of the state reopening plan to another, BESE shall immediately communicate the substance of such executive proclamation to each LEA, including the impact of the executive proclamation on the roles, responsibilities, and requirements of each LEA in the state.

1. If necessary, as a result of such executive proclamation, BESE may:

a. consider revisions to regulations pertaining to the phased reopening of school facilities for the 2020-2021 school year; or

b. authorize the LDE to issue detailed guidance to each LEA in the state to include the roles, responsibilities, and requirements of each LEA in the state in response to the executive proclamation.

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of six feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

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

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 4. Reopening School Facilities for the 2020-2021 School Year

§401. Purpose and Background

A. – C. ...

D. By executive proclamation, the governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

1. Subsequent to the reopening of school facilities for the 2020-2021 school year and in coordination with requirements outlined in 168 JBE 2020, LEAs may continue to follow the Phase 3 minimum requirements for reopening school facilities as set forth in this Chapter.

E. In the event the governor orders, via executive proclamation, a reversion or progression from one phase of the state reopening plan to another, BESE shall immediately communicate the substance of such executive proclamation to each LEA, including the impact of the executive proclamation on the roles, responsibilities, and requirements of each LEA in the state.

1. If necessary, as a result of such executive proclamation, BESE may:

a. consider revisions to regulations pertaining to the phased reopening of school facilities for the 2020-2021 school year; or

b. authorize the LDE to issue detailed guidance to each LEA in the state to include the roles, responsibilities, and requirements of each LEA in the state in response to the executive proclamation.

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of six feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.
HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 46:

Title 28

EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

Chapter 11. Health

Subchapter B. Reopening School Facilities for the 2020-2021 School Year

§1105. Purpose and Background

A. – C.

...

D. By executive proclamation, the governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

1. Subsequent to the reopening of school facilities for the 2020-2021 school year and in coordination with requirements outlined in 168 JBE 2020, LEAs may continue to follow the Phase 3 minimum requirements for reopening school facilities as set forth in this Chapter.

E. In the event the governor orders, via executive proclamation, a reversion or progression from one phase of the state reopening plan to another, BESE shall immediately communicate the substance of such executive proclamation to each LEA, including the impact of the executive proclamation on the roles, responsibilities, and requirements of each LEA in the state.

1. If necessary, as a result of such executive proclamation, BESE may:

a. consider revisions to regulations pertaining to the phased reopening of school facilities for the 2020-2021 school year; or

b. authorize the LDE to issue detailed guidance to each LEA in the state to include the roles, responsibilities, and requirements of each LEA in the state in response to the executive proclamation.

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of six feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

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

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 41. Reopening School Facilities for the 2020-2021 School Year

§4101. Purpose and Background

A. – C.

...

D. By executive ~~order~~ proclamation, the governor establishes the statewide phase(s) of reopening (phase 1, phase 2, or phase 3). If the local governing authority of a parish or other municipality has established a more restrictive phase of reopening, the LEA located within that parish or municipality must conform to the more restrictive requirements.

1. Subsequent to the reopening of school facilities for the 2020-2021 school year and in coordination with requirements outlined in 168 JBE 2020, LEAs may continue to follow the Phase 3 minimum requirements for reopening school facilities as set forth in this Chapter.

~~E. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies. In the event the governor orders, via executive proclamation, a reversion or progression from one phase of the state reopening plan to another, BESE shall immediately communicate the substance of such executive proclamation to each LEA, including the impact of the executive proclamation on the roles, responsibilities, and requirements of each LEA in the state.~~

1. If necessary, as a result of such executive proclamation, BESE may:

a. consider revisions to regulations pertaining to the phased reopening of school facilities for the 2020-2021 school year; or

b. authorize the LDE to issue detailed guidance to each LEA in the state to include the roles, responsibilities, and requirements of each LEA in the state in response to the executive proclamation.

~~F. For the purposes of this Chapter, the following definition will apply.~~

~~*Physical Distance*—the act of an individual maintaining a space of six feet or more from another individual.~~

F. Medical or disability impact exceptions to any standard in this Chapter should be addressed on an individual basis by the LEA in accordance with local policies.

G. For the purposes of this Chapter, the following definition will apply.

Physical Distance—the act of an individual maintaining a space of six feet or more from another individual.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:439.1, and 17:3391.

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 LXXXIX – Louisiana Handbook for Nonpublic School Administrators; Part CXV. Louisiana Handbook for School Administrators; and Part CXXXIX. Bulletin 126—Charter Schools

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

PLEASE RESPOND TO THE FOLLOWING:

- 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: _____

**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 LXXXIX – Louisiana Handbook for Nonpublic School Administrators; Part CXV. Louisiana Handbook for School Administrators; and Part CXXXIX. Bulletin 126—Charter Schools

In accordance with Section 973 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records. For the purposes of this Section, the word "poverty" means living at or below one hundred percent of the federal poverty line.

PLEASE RESPOND TO THE FOLLOWING:

1. WILL THE PROPOSED RULE AFFECT THE HOUSEHOLD INCOME, ASSETS, AND FINANCIAL SECURITY?

- No
- Yes
- Lacks sufficient information to determine

2. WILL THE PROPOSED RULE AFFECT EARLY CHILDHOOD DEVELOPMENT AND PRESCHOOL THROUGH POSTSECONDARY EDUCATION DEVELOPMENT?

- No
- Yes
- Lacks sufficient information to determine

3. WILL THE PROPOSED RULE AFFECT EMPLOYMENT AND WORKFORCE DEVELOPMENT?

- No
- Yes
- Lacks sufficient information to determine

4. WILL THE PROPOSED RULE AFFECT TAXES AND TAX CREDITS?

- No
- Yes
- Lacks sufficient information to determine

5. WILL THE PROPOSED RULE AFFECT CHILD AND DEPENDENT CARE, HOUSING, HEALTH CARE, NUTRITION, TRANSPORTATION, AND UTILITIES ASSISTANCE?

- No
- Yes
- Lacks sufficient information to determine

Signature of Contact Person: _____

Date Submitted: _____

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, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES

Person Preparing Statement: Ryan Gremillion Dept.: LA Department of Education
Board of Elementary & Secondary Education

Phone: (225) 342-1501 Office: Policy

Return Address: P. O. Box 94064 Rule Title: Part LXXXIX – Louisiana Handbook for Nonpublic School Administrators; Part CXV. Louisiana Handbook for School Administrators; Part CXXXIX. Bulletin 126—Charter Schools
Baton Rouge, LA

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)

The proposed revisions will not have a fiscal impact on local education agencies (LEAs) and charter schools because the majority of schools have completed the transition from Phase 2 to Phase 3 during the fall 2020 semester. The proposed rule would allow these entities to continue to follow the Phase 3 minimum requirements for reopening facilities. It is unknown how many local governing authorities have established a more restrictive phase of reopening. However, in such districts the proposed rule would not result in additional costs or savings.

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

There are no impacts on state or local governmental revenues.

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

The proposed revisions will not have a fiscal impact on nonpublic schools, although it is unknown how many nonpublic schools are operating in accordance with each phase of the school reopening process. The revisions are likewise not anticipated to result in costs or economic benefits for individuals or small businesses.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Beth Scioneaux
Signature of Agency Head or Designee

Alan M. Bostean
Legislative Fiscal Officer or Designee

Beth Scioneaux, Deputy Superintendent for Management and Finance
Typed Name and Title of Agency Head or Designee

1/8/2021
Date of Signature

1/8/21
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 allow, but do not require, LEAs to continue to follow the Phase 3 minimum requirements for reopening school facilities for the duration of 168 JBE 2020 unless the parish or municipality in which the LEA is located enacts a more restrictive phase.

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

On Tuesday, November 24, Governor John Bel Edwards issued Executive Proclamation Number 168 JBE 2020, which moves our state from Phase 3 to a Modified Phase 2. Pertinent to K-12 education, 168 JBE 2020 authorizes the Board of Elementary and Secondary Education (BESE) to adopt rules that allow Local Educational Agencies (LEAs) to continue to operate within their Phase 3 school reopening and operational guidelines. The proposed revisions allow, but do not require, LEAs to continue to follow the Phase 3 minimum requirements for reopening school facilities for the duration of 168 JBE 2020.

- C. Compliance with Act 11 of the 1986 First Extraordinary Session.

1. Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

No.

2. If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) _____ Yes. If yes, attach documentation.

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

WORKSHEET

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

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

COSTS	FY21	FY22	FY23
PERSONAL SERVICES			
OPERATING EXPENSES			
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	FY21	FY22	FY23
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
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?

Yes.

B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

The proposed revisions will not have a fiscal impact on local education agencies (LEAs) and charter schools because the majority of schools have completed the transition from Phase 2 to Phase 3 during the fall 2020 semester. The proposed rule would allow these entities to continue to follow the Phase 3 minimum requirements for reopening facilities. It is unknown how many local governing authorities have established a more restrictive phase of reopening. However, in such districts the proposed rule would not result in additional costs or savings.

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 impact revenue collections of state and local governmental units.

REVENUE INCREASE/DECREASE	FY21	FY22	FY23
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, 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 have a fiscal impact on nonpublic schools, although it is unknown how many nonpublic schools are operating in accordance with each phase of the school reopening process. The revisions are likewise not anticipated to result in costs or economic benefits for individuals or small businesses.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

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

IV. EFFECTS ON COMPETITION AND EMPLOYMENT

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

The proposed revisions will not have an impact on competition and employment.