

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs—CCAP Household Eligibility (LAC 28:CLXV.509)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 139—Louisiana Child Care and Development Fund Programs*. The proposed amendments create a limited exception, allowing families to qualify for the Child Care Assistance Program (CCAP) while seeking employment or enrolling in school.

Title 28

EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 5. CCAP Household Eligibility

§509. Certification Requirements for Non-Categorically Eligible Households

A. - A.5.d. ...

e. Exception. If the head of household is actively seeking employment and/or training, the employment and/or training requirements for household certification provided for in this Paragraph may be waived for 90 days.

i. To become certified as a CCAP household in accordance with this exception, the household must meet all certification requirements in this Section other than the employment and/or training activities required in this Paragraph, and must submit all documentation required for certification, as well as documentation establishing that the head of household is actively seeking employment and/or training.

ii. A household certified for CCAP in accordance with this exception will be certified for 90 days, beginning on the day the household is certified. At the end of 90 days from the date of certification, certification under this exception ends. However, during the 90-day certification period, if the head of household submits documentation establishing employment and/or training, meeting the requirements in Subparagraph a of this Paragraph, then the household may continue to be certified without interruption in accordance with the general certification requirements in this Section.

iii. An application for household certification under this exception will be denied if the household has previously been certified under this exception within the past 24 months.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.28 and 45 CFR parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:2175 (December 2016), LR 44:261 (February 2018), effective March 1, 2018, LR 45:900 (July 2019), LR 46:

COMPARISON DOCUMENT

Title 28

EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 5. CCAP Household Eligibility

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A. - A.5.d. ...

~~e. The department shall conduct analysis of the impact of training and employment requirements on child care participation and workforce participation and shall produce a report with policy recommendations no later than August 2019. Exception. If the head of household is actively seeking employment and/or training, the employment and/or training requirements for household certification provided for in this Paragraph may be waived for 90 days.~~

i. To become certified as a CCAP household in accordance with this exception, the household must meet all certification requirements in this Section other than the employment and/or training activities required in this Paragraph, and must submit all documentation required for certification, as well as documentation establishing that the head of household is actively seeking employment and/or training.

ii. A household certified for CCAP in accordance with this exception will be certified for 90 days, beginning on the day the household is certified. At the end of 90 days from the date of certification, certification under this exception ends. However, during the 90-day certification period, if the head of household submits documentation establishing employment and/or training, meeting the requirements in Subparagraph a of this Paragraph, then the household may continue to be certified without interruption in accordance with the general certification requirements in this Section.

iii. An application for household certification under this exception will be denied if the household has previously been certified under this exception within the past 24 months.

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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
Baton Rouge, LA Title: Part CLXV. Bulletin 139—
Louisiana Child Care and
Development Fund Programs

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 indeterminable cost increases to the Department of Education (LDE) for FY 21 through FY 23 through federal Child Care Development Fund (CCDF) expenses as a result of the proposed revisions to expand eligibility to households actively seeking employment and/or training. Because families would be eligible for these services for up to 90 days under the proposed rule, costs may exceed \$2.7 million during that time period. Increased costs will continue to increase for the remainder of FY 21 and at an indeterminable rate into FY 22 and FY 23. It is unknown how many households will qualify for CCAP under this provision due to multiple factors, such as the number of new applicants per month, the number deemed eligible, the number of households that become certified for CCAP during the 90 day period, and future economic conditions of the state and the resulting unemployment rate.

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

There are no estimated impacts on revenue collections as a result of the proposed policy revisions.

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

Eligible CCAP households will realize economic benefits as a result of the proposed revisions. The current Louisiana unemployment rate is recorded at approximately 14 percent. As a result, many CCAP families are unable to meet the training and/or employment requirements contained in Bulletin 139. In response, these proposed revisions would create a limited 90 day exception, allowing families to qualify for the Child Care Assistance Program (CCAP) while seeking employment or enrolling in school.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy revisions will have no effect on competition, however employment may increase as a result of more families having access to child care services. More child care centers may be able to re-open or remain open as a result of increased CCAP participation.

Beth Scioneaux
Signature of Agency Head or Designee

[Signature] 7/10/20
Legislative Fiscal Officer or Designee

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

7/9/2020
Date of Signature

Date of Signature

LFO 10/04

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 adjust the Child Care Assistance Program (CCAP) eligibility criteria to allow child care subsidy for families either seeking employment or enrolling in school for 90 days once every 24 months. During the 90 day period, should the family meet the normal eligibility criteria by obtaining employment and/or enrolling in school, the family would receive at least 12 months of subsidy for childcare; therefore, allowing child care stability for a family to continue to work/attend school and provide continuity of care and education for the family's children.

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

The recent worldwide pandemic (COVID-19) and governmental response to the state and national public health crisis has resulted in unprecedented unemployment rates across the United States. The current Louisiana unemployment rate is recorded at approximately 14 percent. As a result, many CCAP families are unable to meet the training and/or employment requirements contained in Bulletin 139.

In response, the Louisiana Department of Education (LDE) proposes revisions to Bulletin 139, which would create a limited exception, allowing families to qualify for the Child Care Assistance Program (CCAP) while seeking employment or enrolling in school. Louisiana would be the twenty-first state to provide such a limited exception for the purpose of determining CCAP eligibility.

- 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) X Yes. If yes, attach documentation.

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

The legislature has appropriated funds through the federal Child Care Development Fund (CCDF); funds are appropriated in the General Appropriations Bill (HB 1 of the 2020 1st Extraordinary Session).

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	FY20-21	FY21-22	FY22-23
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES	Increase	Increase	Increase
EQUIPMENT			
MAJOR REPAIR & CONSTR.			
<u>POSITIONS (#)</u>			
TOTAL	Increase	Increase	Increase

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.

There will be indeterminable cost increases to the Department of Education (LDE) for FY 21 through FY 23 through federal Child Care Development Fund (CCDF) expenses as a result of the proposed revisions to expand eligibility to households actively seeking employment and/or training. LDE estimates are based on historical data.

An estimated 1 percent of the over 300,000 currently unemployed as a result of the COVID-19 pandemic may apply for the Child Care Assistance Program (CCAP). Assuming roughly half of applicants qualifying would translate to 1,500 families per month, with 2,250 children receiving services. Applying the average payment of \$403 per child would result in \$906,750 in additional federal expenditures per month. Because families would be eligible for these services for up to 90 days under the proposed rule, costs may exceed \$2.7 million during that time period. Increased costs will continue to increase for the remainder of FY 21 and at an indeterminable rate into FY 22 and FY 23. It is unknown how many households will qualify for CCAP under this provision due to multiple factors, such as the number of new applicants per month, the number deemed eligible, the number of households that become certified for CCAP during the 90 day period, and future economic conditions of the state and the resulting unemployment rate.

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

SOURCE	FY20-21	FY21-22	FY22-23
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	-0-	-0-	-0-
DEDICATED			
FEDERAL FUNDS	Increase	Increase	Increase
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. According to the Administration for Children and Families, Federal Fiscal Year (FFY) 20 Child Care Development Block Grant (CCDBG) allocations available to Louisiana includes \$108.1 M annual appropriation as well as a \$67.6 M supplemental appropriation through the CARES Act.

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 no anticipated fiscal impacts to local governmental units as a result of the proposed revisions.

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

No sources of funding of local governmental units will be affected by the proposed revisions.

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	FY20-21	FY21-22	FY22-23
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.

Eligible CCAP households will realize economic benefits as a result of the proposed revisions. The recent worldwide pandemic (COVID-19) and governmental response to the state and national public health crisis has resulted in unprecedented unemployment rates across the United States. The current Louisiana unemployment rate is recorded at approximately 14 percent. As a result, many CCAP families are unable to meet the training and/or employment requirements contained in Bulletin 139. In response, the Louisiana Department of Education (LDE) proposes revisions to Bulletin 139, which would create a limited exception, allowing families to qualify for the Child Care Assistance Program (CCAP) while seeking employment or enrolling in school.

- 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 policy revisions will have no effect on competition, however employment may increase as a result of more families having access to child care services. More child care centers may be able to re-open or remain open as a result of increased CCAP participation.

**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 CLXV. Bulletin 139—Louisiana Child Care and
Development Fund Programs

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: Ryan Gremillion

Date Submitted: 7/9/20

**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 CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

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: Ryan Gremillion

Date Submitted: 7/9/20

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, August 9, 2020, 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