

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Charter School Fiscal Responsibilities (LAC 28:CXXXIX.2511)

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). Proposed amendments better ensure alignment between BESE and local charter authorizing processes, provide for the inclusion of intentional questions requiring applicants to substantiate that the proposed school will improve outcomes for the intended student population, and reflect updated authorizing priorities aligned to national best practices

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 25. Charter School Fiscal Responsibilities

§2511. Cash Management and Investment

A. Each charter school board shall create and adopt a policy and implement procedures regarding cash management and investments of public funds. The policy shall protect public funds by minimizing the amount of unsecured funds to the extent practical.

B. Best practices identified for political subdivisions in R.S. 33:2955, Investment by Local Political Subdivisions and R.S. 39:1211, Banking Law for Political Subdivisions may be used as a guide for developing a cash management and investment policy for charter school boards. The use of any of the best practices shall not be interpreted to define charter schools as political subdivisions.

C. The cash management and investment policy shall contain procedures for determining the bank or other such entity in which public funds in an amount equal to the amount insured by the FDIC shall be deposited. The bank or other such entity shall be a stock-owned federally insured depository institution organized under the laws of this state or of any other state of the United States, or under the laws of the United States.

D. Each charter school board shall include in the policy a process for examination of the soundness of any banking institution considered as the fiscal agent or local depository prior to deposit of funds. Charter operators shall utilize the quarterly Federal Financial Institutions Examination Council's (FFIEC) Uniform Bank Performance Review (UBPR) to select an institution in which to deposit funds. Two metrics included in this report indicate the stability of a bank specifically, High Capital Ratio and Non-Current Loans Equity Capital, and shall be reviewed prior to conducting business with this institution. Documentation shall be maintained to support the completion of this verification and made available for review if requested.

E. The policy shall contain procedures for identifying one or more methods for managing unsecured funds in order to minimize the risk of loss. Documentation shall be maintained to support the selection of one or more methods for managing unsecured funds and made available for review if requested. In order to minimize unsecured cash, the following methods for cash management and investments may be considered:

1. Collateralization of funds offered to public entities, if available;
2. Certificate of deposit laddering;
3. Deposits in the Louisiana Asset Management Pool (LAMP);
4. Deposits in the Certificate of Deposit Account Registry Service (CDARS);
5. Deposits in an Insured Cash Sweep service; and
6. Deposits in multiple banking institutions.

F. Adherence to the adopted policy shall be measured as part of the annual independent audit of the financial statements of each charter school. The audit shall note if the charter operator holds any unsecured cash as of the end of the fiscal year, as well as the amount.

G. Each charter school board shall create and adopt a policy in compliance with the aforementioned requirements no later than December 31, 2021.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:3981, R.S. 17:3991, and R.S. 17:3995.

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

COMPARISON DOCUMENT

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

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

Person Preparing Statement: Ethan Melancon
Phone: 225-342-1501
Division: Policy Office
Rule Title: 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: Ethan Melancon

Phone: 225-342-1501

Division: Policy Office

Rule Title: 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, August 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: Ethan Melancon 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 CXXXIX. Bulletin 126—Charter
Baton Rouge, LA Charter Schools

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 may be limited costs and increased workloads for charter schools to develop and implement a cash management and investment policy. However, these impacts are not expected to be significant.

The Internal Audit Report submitted to the Board of Elementary and Secondary Education (BESE) in Fall 2020 noted that during the review of the FY 2018-19 charter school Single Audit reports, Type 2, 4, and 5 charter schools had in excess of \$86.2 million in uninsured uncollateralized bank deposits. Loss of these funds would have a significant negative impact on charter schools, impeding their ability to provide quality education and services to their students, and also a negative financial impact on the State of Louisiana in resolving the situation.

The proposed revisions provide guidance to charter schools advising of the potential risks, and outlining resources and methods for cash management. The revisions suggest utilizing the practices prescribed in Louisiana's investment and banking laws for political subdivisions. The revisions also outline the required elements of the policy, which must address procedures for evaluating banking institutions for use by the charter school, as well as procedures for minimizing the amount of unsecured public funds.

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, SMALL BUSINESSES, OR NON-GOVERNMENTAL GROUPS (Summary)

There are no anticipated impacts on directly affected persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Beth Scioneaux
Signature of Agency Head or Designee

Alan M. Bostick
Legislative Fiscal Officer or Designee

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

7.1.2021
Date of Signature

7/7/21
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 LDOE has a responsibility to ensure city/parish school systems and charter schools are in good financial position and that any external factors which may have significant negative impacts on this financial position be identified and addressed.

Within the Internal Audit Report submitted to BESE in Fall 2020, such an external factor was identified and brought forth as a concern. The report noted that during the review of the FY 2018-19 charter school Single Audit reports, Type 2, 4, and 5 charter schools had in excess of \$86.2 million in uninsured uncollateralized bank deposits.

Loss of these funds would have a significant negative impact on the charter school(s), impeding their ability to provide quality education and services to their students, and also a negative financial impact on the State of Louisiana in resolving the situation.

The proposed revisions provide guidance to charter schools advising of the potential risks, and outlining resources and methods for cash management.

- 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 in response to the Internal Audit report submitted to BESE in Fall 2020. The proposed revisions provide guidance to charter schools advising of the potential risks, and outlining resources and methods for cash management.

- 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?

The proposed revisions will not have a fiscal impact to state governmental units.

| COSTS | FY21-22 | FY22-23 | FY23-24 |
|------------------------|---------|---------|---------|
| PERSONAL SERVICES | | | |
| OPERATING EXPENSES | | | |
| PROFESSIONAL SERVICES | | | |
| OTHER CHARGES | | | |
| EQUIPMENT | | | |
| MAJOR REPAIR & CONSTR. | | | |
| POSITIONS (#) | | | |
| 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 | FY21-22 | FY22-23 | FY23-24 |
|-----------------------|---------|---------|---------|
| 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.

There may be limited costs and increased workloads for charter schools to develop and implement a cash management and investment policy. However, these impacts are not expected to be significant. The proposed revisions require each charter entity school board (charter school or foundation) to craft and adopt policies and procedures addressing secured deposits no later than December 31, 2021. This requirement may result in adjusted workloads, but the extent is indeterminable at this time.

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 | FY21-22 | FY22-23 | FY23-24 |
|---------------------------|---------|---------|---------|
| 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.

N/A

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.

There are no anticipated impacts on directly affected persons, small businesses, or non-governmental groups.

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

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.

COMPARISON DOCUMENT

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