

NOTICE OF INTENT

Board of Elementary and Secondary Education

Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations
(LAC 28:CLXI.1903).

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 proposes to amend LAC 28:CLXI: in Bulletin 137 – Louisiana Early Learning Center Licensing Regulations. The proposed revisions clarify for child care providers the allowance and requirements for minimum usable indoor space per child. Revisions ensure the health and safety of children by requiring the center request and receive approval from the Louisiana Department of Education licensing division and the Office of State Fire Marshal when a minimum of 25 square feet of usable space per child is allocated in spaces specified for use by children four years old and above.

Title 28

EDUCATION

Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

§1903. Physical Environment

A. – C. ...

D. Indoor Space

1. A minimum of 35 square feet of usable indoor space shall be available per child.

a. Effective June 1, 2022, a center may request approval from the Office of State Fire Marshal and the LDE, that for children ages 4 and above, a minimum of 25 square feet of usable indoor space shall be available per child in the specified space for 4 year old and above use only.

b. The space shall not include toilet facilities, hallways, lofts, storage spaces, stairways, lockers, offices, storage or food preparation areas, rooms used exclusively for dining or sleeping, or rooms used exclusively for the care of ill children.

2. – E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:637 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 44:256 (February 2018), effective March 1, 2018, effective March 1, 2018, LR 47:1278 (September 2021), LR 48:

COMPARISON DOCUMENT

Title 28

EDUCATION

Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations

§1903. Physical Environment

A. – C. ...

D. Indoor Space

1. A minimum of 35 square feet of usable indoor space shall be available per child ~~until June 1, 2022.~~

a. ~~Effective June 1, 2022, a center may request approval from the Office of State Fire Marshal and the LDE, a minimum of 35 square feet of usable indoor space shall be available per child for children ages birth to 4. For that for children ages 4 and above, a minimum of 25 square feet of usable indoor space shall be available per child in the specified space for 4 year old and above use only.~~

b. ~~If any child in a space is less than age 4, a minimum of 35 square feet of usable indoor space shall be available for every child in the space, regardless of age. The space shall not include toilet facilities, hallways, lofts, storage spaces, stairways, lockers, offices, storage or food preparation areas, rooms used exclusively for dining or sleeping, or rooms used exclusively for the care of ill children.~~

c. ~~The space shall not include toilet facilities, hallways, lofts, storage spaces, stairways, lockers, offices, storage or food preparation areas, rooms used exclusively for dining or sleeping, or rooms used exclusively for the care of ill children.~~

2. – E.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40(A)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:637 (April 2015), effective July 1, 2015, amended LR 41:2108 (October 2015), LR 44:256 (February 2018), effective March 1, 2018, effective March 1, 2018, LR 47:1278 (September 2021), LR 48:

**STATE 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: Office of Governmental, Administrative, and Public Affairs
Rule Title: Part CLXI. Bulletin 137. Louisiana Early Learning Center
Licensing Regulations (LAC 28:CLXI.1903).

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: 6/16/2022

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

Person Preparing Statement: Ashley Townsend

Phone: 225-342-3446

Division: Office of Governmental, Administrative, and Public Affairs

Rule Title: Part CLXI. Bulletin 137. Louisiana Early Learning Center Licensing Regulations (LAC 28:CLXI.1903).

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: 6/16/2022

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 10, 2022, 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: Ashley Townsend Dept.: LA Department of Education
Board of Elementary &
Secondary Education

Phone: (225) 342-3446 Office: Policy

Return
Address: P. O. Box 94064 Rule
Baton Rouge, LA Title: Part CLXI. Bulletin 137 – Louisiana
Early Learning Center Licensing
Regulations
(LAC 28:CLXI.1903).

Date Rule Takes Effect: Upon final adoption by BESE

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 increased workload for the Office of the State Fire Marshal to process applications for increased occupancy; however, this work is considered to have a “minimal scope of work” and no material cost increase is expected. The total increase in workload will depend on the number of child care centers applying for increased occupancy.

The proposed revisions clarify for child care providers the allowance and requirements for minimum usable indoor space per child. Revisions ensure the health and safety of children by requiring the center to request and receive approval from the Louisiana Department of Education licensing division and the Office of State Fire Marshal when a minimum of 25 square feet of usable space per child is allocated in spaces specified for use by children four years old and above.

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

The proposed revisions may result in increased self-generated revenue for the Office of the State Fire Marshal. Requests for approval of an occupancy increase will require a \$20 fee, as the work is considered “minimal in scope”. The total number of requests, and therefore the total revenue increase, is indeterminable.

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

The proposed revisions may benefit some child care centers who will be able to serve more children due to the decreased useable indoor space requirements.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

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

LFO 10/04

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 clarify for child care providers the allowance and requirements for minimum usable indoor space per child. Revisions ensure the health and safety of children by requiring the center to request and receive approval from the Louisiana Department of Education licensing division and the Office of State Fire Marshal when a minimum of 25 square feet of usable space per child is allocated in spaces specified for use by children four years old and above.

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

Early Learning Centers are required to ensure the health and safety of children within the facility by maintaining minimum square footage of usable indoor space per child. Areas specified for use only for children four years old and above may receive inspection and approval to have a minimum of 25 square feet, which is less than the amount of space required for younger children.

- 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.

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	FY22-23	FY23-24	FY24-25
PERSONAL SERVICES			
OPERATING EXPENSES	UNKNOWN	UNKNOWN	UNKNOWN
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
<u>MAJOR REPAIR & CONSTR.</u>			
<u>POSITIONS (#)</u>			
TOTAL	UNKNOWN	UNKNOWN	UNKNOWN

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 may be increased workload for the Office of the State Fire Marshal to process applications for increased occupancy; however, this work is considered to have a "minimal scope of work" and no material cost increase is expected. The total increase in workload will depend on the number of child care centers applying for increased occupancy.

The proposed revisions clarify for child care providers the allowance and requirements for minimum usable indoor space per child. Revisions ensure the health and safety of children by requiring the center to request and receive approval from the Louisiana Department of Education licensing division and the Office of State Fire Marshal when a minimum of 25 square feet of usable space per child is allocated in spaces specified for use by children four years old and above.

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

SOURCE	FY22-23	FY23-24	FY24-25
STATE GENERAL FUND	-0-	-0-	-0-
AGENCY SELF-GENERATED	UNKNOWN	UNKNOWN	UNKNOWN
DEDICATED			
FEDERAL FUNDS	-0-	-0-	-0-
OTHER (Specify)			
TOTAL	UNKNOWN	UNKNOWN	UNKNOWN

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

N/A

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 an effect on costs or savings of local governmental units.

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?

REVENUE INCREASE/DECREASE	FY22-23	FY23-24	FY24-25
STATE GENERAL FUND			
AGENCY SELF GENERATED	UNKNOWN	UNKNOWN	UNKNOWN
RESTRICTED FUNDS			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL	UNKNOWN	UNKNOWN	UNKNOWN

*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.

The proposed revisions may result in increased self-generated revenues for the Office of the State Fire Marshal. Requests for approval of an occupancy increase will require a \$20 fee, as the work is considered "minimal in scope". The total number of requests, and therefore the total revenue increase, is indeterminable.

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 may benefit some child care centers who will be able to serve more children due to the decreased square footage requirements.

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.

N/A

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 effect on competition and employment.