

NOTICE OF INTENT

Board of Elementary and Secondary Education

Part CXLVII. Bulletin 130—Evaluation and Assessment of Personnel

(LAC 28: CXLVII. 105, 301 323, and 905).

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has approved for advertisement amendments to *Bulletin 130 – Evaluation and Assessment of Personnel*. The proposed revisions would require, for the 2021-2022 academic year, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance include one announced observation for teachers and administrators. However, any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time. Further, in August 2021, BESE approved, as a Notice of Intent, revisions to Bulletin 130 in response to Act 275 of the 2021 Regular Legislative Session, Revisions update terminology to refer to “school guidance counselors” as “school counselors.” The same update is being made to §323. Job Descriptions.

Title 28

EDUCATION

Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

Chapter 1. Overview

**§105. Framework for LEA Personnel Evaluation Programs
[Formerly §109]**

A. – B.2. ...

3. Observation/Data Collection Process. The evaluator or evaluators of each teacher and administrator shall conduct observations of teacher and administrator practice sufficient to gain a complete picture of performance and impart individualized feedback each year.

a. for the 2020-2021 and 2021-2022 academic years only, this shall include one announced observation for teachers and administrators.

b. ...

c. following the 2021-2022 academic year, this shall include a minimum of two observations per academic year and may include more observations, particularly for teachers or administrators that are not meeting expectations. At least one of these observations shall be announced and shall include a pre- and post-observation conference. One of the observations may be waived for teachers who have earned a rating of highly effective according to the value-added model in the previous year. Following all observations, evaluators shall provide evaluatees with feedback, including areas for commendation as well as areas for improvement. Additional evidence, such as data from periodic visits to the school and/or classroom as well as written materials or artifacts, may be used to inform evaluation.

B.4. – B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010), amended LR 38:1215 (May 2012), LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 47:354 (March 2021).

Chapter 3. Personnel Evaluation

§301. Overview of Personnel Evaluation

A. – A.1. ...

2. For the 2020-2021 and 2021-2022 academic years only, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include one announced observation for teachers and administrators.

a. ...

b. following the 2021-2022 academic year, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include a minimum of two observations or site visits. This portion of the evaluation may include additional evaluative evidence, such as walk-through observation data and evaluation of written work products.

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**§323. Job Descriptions
[Formerly §339]**

A. The local personnel evaluation plan shall contain a copy of the job descriptions currently in use in the LEA. The LEA shall establish a competency-based job description for every category of teacher and administrator pursuant to its evaluation plan. The chart that follows identifies a minimum listing of the categories and titles of personnel for which job descriptions must be developed.

Personnel Category	Position or Title
Administration	1. Superintendent 2. Assistant Superintendent 3. Director 4. Supervisor 5. Coordinator 6. Principal 7. Assistant Principal 8. Any employee whose position does not require certification but does require a minimal educational attainment of a bachelor's degree from an accredited institution of higher learning 9. Any employee whose position requires certification, but whose title is not given in this list 10. Any employee who holds a major management position, but who is not required to have a college degree or certification
Instructional Personnel	1. Teachers of Regular and Sp. Ed. students 2. Special Projects Teachers 3. Instructional Coaches and/or Master Teachers
Support Services	1. School Counselors 2. Librarians 3. Therapists
	1. Any employee whose position does not require certification but does require a minimal educational attainment of a bachelor's degree from an accredited institution of higher learning 2. Any employee whose position requires certification, but whose title is not given in this list 3. Any employee who holds a major management position, but who is not required to have a college degree or certification

B. – C.8.

NOTE: Job descriptions must be reviewed annually. Current signatures must be on file at the central office in the single official file to document the annual review and/or receipt of job descriptions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

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Chapter 9. General Provisions

§905. Definitions

A. In order that consistency in terminology be maintained on a statewide basis, the department has established a list of terms and definitions. Careful consideration of each should be given during the training and implementation of personnel evaluation programs. The definitions below must be adopted by all LEAs. If additional terms are necessary in establishing a clear and concise understanding of evaluation procedures, they must be included in the LEA local personnel evaluation plan.

Accountability—shared responsibility for actions relating to the education of children,

Teacher—any person who provides direct instruction or direct instructional support to students, to whom he/she has been formally assigned. Classroom *teachers*, special education *teachers*, librarians, and school counselors shall be considered *teachers* according to this definition.

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HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1222 (May 2012), amended LR 38:2362 (September 2012), LR 39:1275 (May 2013).

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

Person Preparing Statement: Ashley Townsend
Phone: 225-342-1501
Division: Policy Office
Rule Title: Part CXLVII. Bulletin 130 – Evaluation and Assessment of Personnel

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: Ashley Townsend

Date Submitted: 10/18/2021

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

Person Preparing Statement: Ashley Townsend

Phone: 225-342-4991

Division: Policy Office

Rule Title: Part CXLVII. Bulletin 130 – Evaluation and Assessment of Personnel

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: Ashley Townsend

Date Submitted: 10/18/2021

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.

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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) 342-1501 Office: Policy

Return
Address: P. O. Box 94064 Rule
Title: Part CXLVII. Bulletin 130—Evaluation and
Baton Rouge, LA Assessment of Personnel

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)

The proposed revisions could impact expenditures of local school districts to the extent teachers or administrators initially rated as Ineffective experience improved performance ratings through their second observation as a result of additional support; however, this is not anticipated to be material. Based on the 2018-19 Compass Teacher Results, an estimated 505 (1%) teachers were rated Ineffective. State law prohibits teachers or administrators rated Ineffective from receiving a higher salary in the year following the evaluation. If any teachers or administrators initially rated Ineffective are able to improve their rating to Effective: Emerging, they would become eligible for salary increases or supplements in the 2022-2023 academic year.

The proposed revisions would require, for the 2021-2022 academic year, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance include one announced observation for teachers and administrators. However, any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time. Further, in August 2021, BESE approved, as a Notice of Intent, revisions to Bulletin 130 in response to Act 275 of the 2021 Regular Legislative Session. Revisions update terminology to refer to "school guidance counselors" as "school counselors."

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

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

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

Teachers and administrators initially rated as Ineffective may benefit from additional support from school administrators that are not required to conduct a second evaluation for certain personnel during the 2021-22 academic year. To the extent this results in improved performance evaluations, teachers and administrators could potentially receive a salary increase in the 2022-23 academic year.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, December 10, 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

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

DocuSigned by:
Beth Scioneaux
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

11/8/2021
Date of Signature

11/8/21
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 proposed revisions would require, for the 2021-2022 academic year, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance include one announced observation for teachers and administrators. However, any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time. Further, in August 2021, BESE approved, as a Notice of Intent, revisions to Bulletin 130 in response to Act 275 of the 2021 Regular Legislative Session. Revisions update terminology to refer to "school guidance counselors" as "school counselors."

- 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 impacts of COVID-19 and natural disasters. These proposed revisions will alleviate the evaluative burden on school personnel and facilitate school administrators' investment of time into teachers in need of additional support.

- 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?

The proposed revisions will have no effect on costs or savings to state agencies.

COSTS	FY21-22	FY22-23	FY23-24
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.

N/A

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

SOURCE	FY21-22	FY22-23	FY23-24
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?

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 could impact expenditures of local school districts to the extent teachers or administrators initially rated as Ineffective experience improved performance ratings through their second observation as a result of additional support; however, this is not anticipated to be material. Based on the 2018-19 Compass Teacher Results, an estimated 505 (1%) teachers were rated Ineffective. State law prohibits teachers or administrators rated Ineffective from receiving a higher salary in the year following the evaluation. If any teachers or administrators initially rated Ineffective are able to improve their rating to Effective: Emerging, they would become eligible for salary increases or supplements in the 2022-2023 academic year.

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

N/A

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 have an effect on revenue collections of state or 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.

Teachers and administrators in local school districts would be directly affected by the proposed action.

- 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.

Teachers and administrators initially rated as Ineffective may benefit from additional support from school administrators that are not required to conduct a second evaluation for certain personnel during the 2021-22 academic year. To the extent this results in improved performance evaluations, teachers and administrators could potentially receive a salary increase in the 2022-23 academic year.

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

**Title 28
EDUCATION**

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Chapter 1. Overview**

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	3. Instructional Coaches and/or Master Teachers
	1. Guidance School Counselors
	2. Librarians
	3. Therapists
	4. Any employee whose position does not require certification but does require a minimal educational attainment of a bachelor's degree from an accredited institution of higher learning
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