



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064 · PHONE: 225-342-5840 · FAX: 225-342-5843

April 10, 2020

MEMORANDUM

James Garvey
1st BESE District

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2nd BESE District

Sandy Holloway
3rd BESE District

Tony Davis
4th BESE District

Ashley Ellis
5th BESE District

Ronnie Morris
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7th BESE District

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Member-at-Large

Doris Voitier
Member-at-Large

TO: Senator Patrick Page Cortez, Senate President
Representative Clay Schexnayder, Speaker of the House
Senator Cleo Fields, Chair, Senate Committee on Education
Representative Raymond E. Garofalo, Chair, House Committee on Education

FROM: Shan N. Davis, Executive Director
Board of Elementary and Secondary Education

RE: Summary Report on Board of Elementary and Secondary Education Proposed Rulemaking

Pursuant to R.S. 49:968(D)(1)(b), the Board of Elementary and Secondary Education hereby submits to you this summary report and announces its plan to proceed with rulemaking by finalizing the March 20, 2020, Notice of Intent that was promulgated on pages 411-412 of the *Louisiana Register*.

The Board has received no comments or requests for a public hearing and has not conducted a hearing pursuant to R.S. 49:953(A)(2)(a).

The Board has made no change to the proposed Rule.

Subject to legislative oversight by either the House Committee on Education or Senate Committee on Education, the Board anticipates adopting the Notice of Intent as a final Rule in the June 20, 2020, issue of the *Louisiana Register*.

The following document is attached:

1. A copy of the Notice of Intent.

Please contact Shannon Rawson at (225) 342-5841 if the Board may be of any assistance to you concerning this Rule.

SND:slr

Attachment (1)

- c: Shalyric Self, Senior Analyst, Senate Committee on Education
Cheryl Serrett, Analyst, Senate Committee on Education
Elizabeth Borne, Senior Legislative Analyst, House Committee on Education
Lisa Lovello, Legislative Analyst, House Committee on Education
Ryan Gremillion, Policy Director, Louisiana Department of Education
Shan N. Davis, Executive Director, BESE
Kevin Calbert, Communications Manager, BESE

Shan N. Davis
Executive Director

verification reports, and invoices for reimbursement should provide a positive impact to any small businesses that choose to apply to the program.

Firms who are eligible for QMC payroll tax credits may realize a reduction in tax liabilities to the extent they qualify for the credit.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Companies receiving benefits under this program will continue to gain competitively over companies that do not receive the program's benefits.

Anne G. Villa
Undersecretary
2003#016

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools—Charter School Renewals and Virtual Charter School Attendance (LAC 28:CXXXIX.1505 and 3709)

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 in §1505 clarify renewal criteria for BESE-authorized charter schools and ensure that the state superintendent of education considers student performance and/or growth data of neighboring and comparable schools when making a recommendation. Additionally, proposed amendments in §3709 outline student attendance policy requirements for state-authorized virtual charter schools, in accordance with Act 398 of the 2019 Regular Legislative Session.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 15. Charter Renewal

§1505. Eligibility for Renewal of BESE-Authorized Charter Schools (Formerly §1503.B)

A. - B.2.b.i. ...

C. When a charter school does not meet the criteria for renewal in the initial or subsequent charter term, BESE may renew the charter based upon the recommendation of the state superintendent. Such renewal may include conditions to be incorporated in the charter school contract and may require the charter operator to phase out operation of the school over the course of the renewal term. Prior to recommending such renewal, the following must be considered:

1. nonrenewal may require students to attend lower-performing schools;
2. available academic data, including student performance data and/or student growth data of neighboring and comparable schools, has been reviewed; and
3. efforts to find a new, high-quality operator for the charter school have failed.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:3981, and 17:3992.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:479 (March 2010),

amended LR 37:871 (March 2011), LR 37:2388 (August 2011), LR 38:752 (March 2012), repromulgated LR 38:1394 (June 2012), amended LR 38:3119 (December 2012), LR 39:1436 (June 2013), LR 39:3066 (November 2013), LR 40:1323 (July 2014), LR 41:1264 (July 2015), LR 44:238 (February 2018), LR 46:

Chapter 37. Virtual Charter Schools

§3709. Virtual Charter School Attendance

A. State-authorized virtual charter schools are required to enforce student attendance and address cases of student truancy and unexcused absences.

B. Virtual charter school operators must annually submit attendance policies to the department for approval to ensure compliance with applicable laws and regulations. The state superintendent will set forth the process for attendance policy submission.

C. Attendance policies for virtual schools must include:

1. a definition of the method in which attendance is measured for students enrolled at the school including, but not limited to, minimum expectations regarding active class participation, time spent connected online, and/or completion and submission of assignments;
2. a plan regarding the method in which student attendance will be recorded and enforced; and
3. a plan for providing orientation including the school attendance policy to enrolled students and parents or legal custodians, with such orientation occurring upon enrollment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 17:233.

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

Family Impact Statement

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.

1. Will the proposed Rule affect the stability of the family? No
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No
3. Will the proposed Rule affect the functioning of the family? No
4. Will the proposed Rule affect family earning and family budget? No
5. Will the proposed Rule affect the behavior and personal responsibility of children? No
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes

Poverty Impact Statement

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.

1. Will the proposed Rule affect the household income, assets, and financial authority? No
2. Will the proposed rule affect early childhood development and preschool through postsecondary education development? Yes
3. Will the proposed rule affect employment and workforce development? No
4. Will the proposed rule affect taxes and tax credits? No
5. Will the proposed rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No

Small Business Analysis

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 the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. 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, April 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 126—Charter Schools—Charter School Renewals and Virtual Charter School Attendance

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There may be adjustments in state Minimum Foundation (MFP) costs and an increase in costs for state-authorized virtual charter schools and local school districts as a result of the proposed rule changes requiring the adoption and enforcement of student attendance policies, pursuant to Act 398 of 2019.

The rule requires virtual charter schools to adopt an attendance policy which includes a definition of attendance based on, at a minimum, expectations regarding active class participation, time spent connected online, and/or completion and submission of assignments. To the extent that currently enrolled students do not meet the new attendance policy, it may result in students identified as truant and prompt certain procedural actions, in accordance with virtual charter school policy. State MFP allocations are driven by student counts taken on Feb. 1 and Oct. 1, therefore policies which affect student count could either increase or decrease state block grant funding for the virtual charter school.

There is an indeterminable impact to virtual charter schools. Costs associated with the development of such policies and orientation for enrolled students and parents are not expected to be material. However, because virtual charter schools serve students statewide, there could be increased costs to the extent the virtual charter school seeks assistance from local school districts for truancy enforcement actions.

Additionally, the proposed rule requires the review of certain performance and student growth data as part of the renewal of BESE-authorized charter schools. This codifies existing practice, thus there are no additional costs associated with this change.

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

In the event that virtual charter schools identify students as truant under their new attendance policies and this results in a decrease in student enrollment counts, there may be reductions to their allocations from the MFP. Potential impacts are indeterminable at this time.

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

There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed policy revisions.

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
Deputy Superintendent
2003#013

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Environmental Quality
Office of the Secretary
Legal Affairs and Criminal Investigations Division**

Hazardous Waste Generator Improvements
(LAC 33:V.Chapters 1, 3, 5, 10, 11, 13, 15, 17, 18,
19, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 35, 38,
40, 41, 42, 43, 45, 49, 51, and 53)(HW124)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations. (HW124)

The proposed Rule adopts the federal Generator Improvements Rule which amends the hazardous waste program as relating to generators. A summary of the revisions are as follows: reorganizes the regulations to make