



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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August 18, 2021

MEMORANDUM

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 July 20, 2021, Notice of Intent that was promulgated on pages 944-945 of the *Louisiana Register*.

The Board has received one (1) public comment and has not conducted a hearing pursuant to R.S. 49:953(A)(2)(a).

The Louisiana State Board of Elementary and Secondary Education met in regular session on August 18, 2021, and took the following action:

On motion of Mr. Castille, seconded by Ms. Voitier, the Board:

1. received the SPCAR regarding revisions to Bulletin 1566, *Pupil Progression Policies and Procedures*;
2. authorized BESE staff to submit the summary report to the Legislative Oversight Committees; and
3. directed BESE staff to proceed with the final adoption of the July 20, 2021, Notice of Intent regarding revisions to Bulletin 1566 at the appropriate time.

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 October 20, 2021, issue of the *Louisiana Register*.

Shan N. Davis
Executive Director

Cade Brumley
State Superintendent

The following documents are attached:

1. A copy of the Notice of Intent;
2. Summary of Public Comments and Agency Response pertaining to proposed revisions to Bulletin 1566, *Pupil Progression Policies and Procedures*; and
3. Public comments from Ms. Anna Fogle, dated August 4, 2021.

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

SND:slr

Attachment (3)

c: Shalyric Self, Secretary, Senate Committee on Education
Cheryl Serrett, Analyst, Senate Committee on Education
Elizabeth Borne, 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

Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may be hand-delivered to Shan N. 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 746—Louisiana Standards for
State Certification of School Personnel**

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

There will be increased state costs to the extent the proposed revisions result in an increase in mentor teachers due to the expanded eligibility criteria for receipt of a mentor teacher certification; however, this is indeterminable. Currently, mentor teachers are provided a \$1,000 stipend, funded through the Louisiana Quality Education Support Fund, or 8(g) Grants Program. To the extent the number of mentor teachers exceeds available funds, the Department of Education (LDE) will need to identify other sources of funding to maintain stipend payments. In addition, the LDE may experience an increase in workload to process waivers for mentor teachers, as well as applications for mentor teacher ancillary certifications and endorsements; however, this is indeterminable.

Per the LDE, the proposed revision to reduce the number of assessments required for mentor teachers from four to two will not affect the current cost of the assessment series of \$175. Although the LDE currently provides some funding towards assessment fees, local school districts may incur additional costs if the number of teachers taking the assessment series increases or if such funds are unavailable in future years; however, this is indeterminable.

**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 revisions.

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

The proposed revisions will provide direct economic benefits to individuals who currently hold a National Institute for Excellence in Teaching (NIET) Teacher Evaluation Training certification, CLASS® certification, or a Louisiana Administrative or Supervisory Credential, as these individuals will be eligible to serve as mentors without meeting the eligibility requirements for a mentor teacher ancillary certificate. Currently, mentor teachers are provided a \$1,000 stipend, funded through the Louisiana Quality Education Support Fund, or 8(g) Grants Program.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT
(Summary)**

The proposed revisions may increase the number of mentor teachers, as the mentor teacher ancillary certificate is more accessible to educators.

Both Scioneaux
Deputy Superintendent
7107#036

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
(LAC 28:XXXIX.305)

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 1566—Pupil Progression Policies and Procedures. The proposed amendments clarify that a locally authorized charter operator shall have the autonomy to develop a Pupil Progression Plan (PPP) separate and apart from the local charter authorizer. The proposed revision allows locally authorized charter operators to set policies and practices regarding pupil progression, aligned with federal law, state law, and BESE policy.

**Title 28
EDUCATION**

**Part XXXIX. Bulletin 1566—Pupil Progression Policies
and Procedures**

**Chapter 3. General Procedure for Development;
Approval and Revision of a Pupil
Progression Plan**

§305. Submission Process

A. - A.2. ...

B. A local charter authorizer shall allow a locally authorized charter operator to submit a pupil progression plan in accordance with federal law, state law and BESE policy.

1. Following adoption of the pupil progression plan by the non-profit charter school board of directors, the plan shall not require approval or adoption from the local charter authorizer.

2. A locally authorized charter operator shall submit their Pupil Progression Plan to the local charter authorizer prior to the annual submission to the Department of Education.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17.7 and R.S. 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 25:2171 (November 1999), amended LR 27:188 (February 2001), LR 27:1517 (September 2001), LR 36:2002 (September 2010), LR 44:479 (March 2018), LR 47:

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 rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules 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 earnings 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 rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules 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 100 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 R.S. 49:965.6, 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 cost to the providers to provide the same level of service; or

3. 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 12 p.m. (noon), August 9, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may be hand-delivered to Shan N. 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 1566—Pupil Progression Policies and Procedures**

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

The proposed revisions will not have a fiscal impact on state or local governmental units.

The proposed revisions would allow a locally authorized charter operator to develop a Pupil Progression Plan (PPP) separate and apart from the local charter authorizer.

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

The proposed revisions will have no impact on revenue collections of state or local governmental units.

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

The proposed revisions will not result in costs or benefits to 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
Deputy Superintendent
2107#037

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

School Food Service
(LAC 28.LXXIX.1903 and CXV.2103)

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:LXXIX in Bulletin 741 (Nonpublic)—*Louisiana Handbook for Nonpublic School Administrators*; and LAC 28: CXV in Bulletin 741—*Louisiana Handbook for School Administrators*. The aforementioned revisions align state policy with state law to clarify the types of organizations eligible to participate in federal child nutrition programs; define "nutrition programs," and define and specify the responsibilities of a "governing authority of a nutrition program provider."

Title 28

EDUCATION

Part CXV. Bulletin 741—*Louisiana Handbook for School Administrators*

Chapter 21. Support Services

§2103. School Food Service

A. "Nutrition program" means a program under which meals or snacks are served by any governing authority of a

August 4, 2021

I have several questions/comments pertaining to the proposed policy change to Bulletin 1566 Section 305 that allows charter schools to have their own pupil progression plans without consultation or approval by their authorizer.

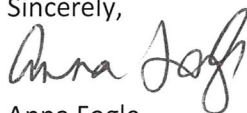
First, it appears to me that graduation requirements cannot differ from the graduation requirements set out in state law. The requirements for a University Diploma are quite clear and approved by BESE and the Board of Regents (https://www.louisianabelieves.com/docs/default-source/jumpstart/tops-university-course-requirements.pdf?sfvrsn=18be8f1f_47). Allowing individual schools to deviate from these graduation requirements (in addition to violating existing statute), will create a great deal of confusion. How can we deny a student a diploma when he/she has met the requirements spelled out in the abovementioned document that guarantees them admittance into a postsecondary institution? The proposed policy change should stipulate that requirements for graduation cannot be stricter than those spelled out by BESE and the Board of Regents.

Second, if you do allow individual schools to create their own stricter graduation requirements, what type of diploma will those who do not meet the school's requirements but do meet the requirements under Louisiana law be given? This should be spelled out in the policy change. Moreover, the onerous for filling out the paperwork for the "alternate" diploma should be on the school, not the parents or the student.

Third, how will students with disabilities be accommodated under the proposed change? RS 17:24:4 spells out the process by which students with exceptionalities are allowed to graduate, but this process depends on a standardized set of graduation requirements. How will this work under the individualized graduation process that the proposed policy change allows?

Finally, if these individualized pupil progression plans and graduation plans are allowed, they need to be clearly spelled out in student handbooks. Parents should be told additional requirements for pupil progression and graduation are used at the school and that failure to meet those requirements may result in the repeating of a grade or failure to graduate even if the student changes schools.

Sincerely,



Anna Fogle

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**Board of Elementary
and Secondary Education**

Summary of Public Comments and Agency Response
Proposed Revisions to Bulletin 1566

Background

In June 2021, the Louisiana Department of Education (LDE) recommended revisions to Bulletin 1566, *Pupil Progression Policies and Procedures*, clarifying that a locally authorized charter operator shall have the autonomy to develop a Pupil Progression Plan (PPP) separate and apart from the local charter authorizer. The Board of Elementary and Secondary Education (BESE) approved the proposed revisions and the Notice of Intent ran in the July 20, 2021, issue of the Louisiana Register.

Public Comments Received

BESE received a public comment from Ms. Anna Fogle, regarding the proposed revisions to Bulletin 1566, *Pupil Progression Policies and Procedures*. The comments submitted by Ms. Fogle pertain to the potential adverse impact of the proposed revision on current Louisiana graduation requirements.

Response

The proposed revision allows locally authorized charter operators to set policies and practices regarding pupil progression. However, those policies and practices, including those related to graduation requirements, must be aligned with federal law, state law, and BESE policy. The LDE appreciates there are differing opinions on this issue, but recommends moving forward with the revisions to Bulletin 1566, *Pupil Progression Policies and Procedures*.