



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

December 12, 2019

MEMORANDUM

James Garvey
1st BESE District

Kira Orange Jones
2nd BESE District

Sandy Holloway
3rd BESE District

Tony Davis
4th BESE District

Gary Jones
5th BESE District

Kathy Edmonston
6th BESE District

Holly Boffy
7th BESE District

Jada Lewis
8th BESE District

Thomas Roque
Member-at-Large

Lurie Thomason
Member-at-Large

Doris Voitier
Member-at-Large

TO: Senator John A Alario, Jr., Senate President
Representative Taylor F. Barras, Speaker of the House
Senator Dan "Blade" Morrish, Chair, Senate Committee on Education
Representative Gary Carter, Vice 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 October 20, 2019, Notice of Intent that was promulgated on pages 1610-1613 of the *Louisiana Register*.

The Board has received no comments or requests for a public hearing and has not conducted a hearing pursuant to RS. 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 February 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: Jeanne Johnston, Senior Analyst, Senate Committee on Education
Cheryl Serrett, Analyst, Senate Committee on Education
Nancy Jolly, Senior Legislative Analyst, Louisiana 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

John C. White
State Superintendent

amended, or repealed a rule in accordance with the applicable provisions of the law relating to public records.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, December 10, 2019, 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 746—Louisiana Standards for
State Certification of School Personnel**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no anticipated impacts to the Department of Education or local school districts as a result of the proposed changes to the Praxis test references which align rules with changes to the Praxis exam effective through July 31, 2020.
- 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 OR NONGOVERNMENTAL GROUPS (Summary)
There are no estimated costs and/or economic benefits for directly affected persons or non-governmental groups as a result of the proposed revisions.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
The proposed revisions could impact the number of individuals receiving certification based on the Praxis test results, but any such impact is indeterminable at this time.

Beth Scioneaux
Deputy Superintendent
1911#047

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Department of Education
Board of Elementary and Secondary Education**

Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act (LAC 28:XLIII.101, 153, 450, 508, 904, 1101, 1153, 1508, and 1511)

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 proposes to amend *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*. The proposed amendments clarify time limits for formal written complaint

and due process hearing procedures. The proposed amendments also remove the Louisiana Special Education Center as a BESE Special School, in accordance with Act 411 of the 2019 Regular Legislative Session.

Title 28

EDUCATION

Part XLIII. Bulletin 1706—Implementation of the Children with Exceptionalities Act

Subpart 1. Students with Disabilities

Chapter 1. State Eligibility

Subchapter A. Free Appropriate Public Education (FAPE)

§101. Authority and Scope

A. ...

1. In accordance with R.S. 17:1941 et seq., the Board of Elementary and Secondary Education is:

a. responsible for the assurance of a free appropriate public education to all students residing in the state; and

b. directly responsible for the provision of a free appropriate public education to students within the jurisdiction of the Special School District, the Recovery School District, or in a BESE Special School (the Louisiana School for the Visually Impaired or the Louisiana School for the Deaf).

B. - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2036 (October 2008), amended LR 46:

Subchapter J. State Complaint Procedures

§153. Formal Written Complaint Procedures

A. Time Limit; Minimum Procedures. The time limits in this Section commence after LDE receives a signed written complaint filed in accordance with §152 of this Chapter. The LDE will refer the complaint to the LEA superintendent, special education director/supervisor, or ERP representative in accordance with §151 of this Chapter.

1. The LDE will:

a. not commence investigation of a formal written complaint until after the expiration of the 15-day early resolution period described in §151 of this Chapter; but

A.1.b. - K.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2047 (October 2008), amended LR 36:1500 (July 2010), LR 46:

Chapter 4. Special School District and BESE Special Schools

Subchapter B. BESE Special Schools

§450. BESE Special Schools

A. In accordance with R.S. 17:1943, the state superintendent will supervise and oversee the administration of the BESE special schools. The BESE special schools are Louisiana School for the Deaf (LSD) and Louisiana School for the Visually Impaired (LSVI), and are state-operated schools providing educational programs and services for residential and/or day students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2066 (October 2008), amended LR 46:

Chapter 5. Procedural Safeguards

Subchapter A. Due Process Procedures for Parents and Students

§508. Due Process Hearing Request

A. General

1. A party, or the attorney representing a party, files a request for due process hearing by sending a written request for a due process hearing to the LDE. Such request will remain confidential.

2. The party filing a request for a due process hearing must forward a copy of the request for due process hearing to the other party.

3. The time limits in this Section commence after LDE receives the request for a due process hearing. When the LDE receives a written request for a due process hearing, the LDE will provide a copy of the request to the other party. The date the LDE delivers or receives confirmation that the other party has received the request will be the presumptive date of verifying receipt.

4. Within two business days of receipt of a written request, the LDE will transmit the request for due process hearing to the Division of Administrative Law (DAL), who will docket the request and assign a hearing officer.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2071 (October 2008), amended LR 38:2367 (September 2012), LR 46:

Chapter 9. General

Subchapter B. Definitions used in these Regulations

§904. Abbreviations/Acronyms

ALJ—administrative law judge.

LSD—Louisiana School for the Deaf.

LSVI—Louisiana School for the Visually Impaired.

SSD—special school district.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2089 (October 2008), amended LR 38:2368 (September 2012), LR 46:

Subpart 2. Gifted/Talented Students

Editor's Note: This Subpart has been realigned and amended to coincide with recent Subpart 1 changes and to align with Louisiana Revised Statute 17:1941 et seq. The Rule was published in the September 2010 *Louisiana Register*, pages 2011-2029.

Chapter 11. State Eligibility

§1101. Free Appropriate Public Education

A. ...

B. The state board will be directly responsible for the provision of a free appropriate public education (FAPE) to gifted and talented students, ages 3 through 21 years, who are within the jurisdiction of either the Special School District or in a BESE special schools (Louisiana School for

the Visually Impaired or Louisiana School for the Deaf) unless the student exits with a high school diploma.

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 26:1576 (August 2000), amended LR 36:2011 (September 2010), LR 46:

§1153. Formal Written Complaint Procedures

A. Time Limit; Minimum Procedures. The time limits in this Section begin after the LDE receives a signed written complaint filed under §1152. The LDE will refer the complaint to the LEA superintendent, special education director/supervisor, or ERP representative in accordance with §1151.

1. The LDE will:

a. not commence investigation of a formal written complaint until after expiration of the 15-day early resolution period described in §1151; but

A.1.b. - K.1.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2014 (September 2010), amended LR 46:

Chapter 15 Procedural Safeguards

§1508. Due Process Hearing Request

A. General

1. A party, or the attorney representing a party, files a request for due process hearing by sending a written request for due process hearing to the LDE. Such request will remain confidential.

2. The party filing a request for due process hearing will forward a copy of the request for due process hearing to the other party.

3. The time limits in this Section begin after the LDE receives a written request for a due process hearing.

a. The LDE will provide a copy of the request to the other party.

b. The date the LDE delivers or receives confirmation that the other party has received the request will be the presumptive date verifying receipt.

4. Within three business days of receipt of a written request, the LDE will transmit the request for due process hearing to the Division of Administrative Law (DAL), who will docket the request and assign a hearing officer.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2021 (September 2010), amended LR 46:

§1511. Impartial Due Process Hearing and Hearing Officer Appointments

A. ...

B. Agency Responsible for Conducting the Due Process Hearing. The due process hearing described in Paragraph A of this Section will be conducted in accordance with the law and LDE regulations.

C. Impartial Hearing Officer. The DAL will designate hearing officers, who:

C.1. - H.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2023 (September 2010), amended 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 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, December 10, 2019, 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 1706
Regulations for Implementation of
the Children with Exceptionalities Act**

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There is no anticipated impact to either the Department of Education (LDE) or local school districts as a result of the technical revisions. Current policy includes procedures to resolve written complaints and to request hearings to resolve exceptionality disputes. The proposed changes establish that the timelines for such hearings begin once LDE has received the request, upon expiration of the 15-day early resolution period. Further, Act 411 of 2019 transfers the Louisiana Special Education Center (LSEC) from the Special School District to the Department of Health; technical revisions remove references to the LSEC from BESE policy.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
This policy change will have no effect on revenue collections of state or local governmental units.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)
This policy change will not result in estimated costs and/or benefits to directly affected persons or non-governmental groups.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no estimated effect on competition and employment.

Beth Scioneaux
Deputy Superintendent
1911#048

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

**Office of the Governor
Used Motor Vehicle Commission**

Used Motor Vehicles
(LAC 46:V.2701, 2801, 2901-2907, 3101, 3701,
3901, 4301, 4401-4405, 4501, and 4701-4710)

Notice is hereby given in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and through the authority granted in R.S. 32:783(E), that Louisiana Used Motor Vehicle Commission proposes to amend Chapter 27 of Title 26 in order to implement recent amendments made in the 2018 Legislative Session.

Specifically, the proposed changes implemented by ACT 435 of the 2018 Legislative Session will change §4404, Post-Licensing Educational/Continuing Seminar. This Rule will change some title changes that still read Recreational and Used Motor Vehicle Commission to Used Motor Vehicle Commission, which should have been corrected previously. Also, there have been some updates which include technical and grammatical changes.

**Title 46
PROFESSIONAL AND OCCUPATIONAL
STANDARDS**

**Part V. Automotive Industry
Subpart 2. Used Motor Vehicles
Chapter 27. The Used Motor Vehicle Commission
§2701. Meetings of the Commission**

- A. ...
- B. Special Meetings. Special meetings shall be held upon call of the chairman by notice given to the members of the Commission at least 48 hours prior to the time the meeting is to be held; such notice may be given by telephone, facsimile, electronic mail or U.S. Mail.
- C. A public comment period shall be held at or near the beginning of each board meeting. shall identify himself and the group, organization or company he represents, if any. There will be a maximum of 30 minutes per item for all public comments to be heard. Additional time can be allowed by the chairman as he deems reasonable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:783(E)(1) and R.S. 42:5(D).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Used Motor Vehicle and Parts Commission, LR 11:1062 (November 1985), amended by the Department of Economic Development, Used Motor Vehicle and Parts Commission, LR 15:258 (April 1989), LR 15:1058 (December 1989) LR 18:1116 (October 1992), LR 24:1682 (September 1998), LR 25:1792 (October 1999), amended by the Office of the Governor, Used Motor Vehicle and Parts Commission, LR 28:2351 (November 2002), amended by the Office of the Governor, Recreational and Used Motor Vehicle Commission, LR 33:1633 (August 2007), amended by the Office of the Governor, Used Motor Vehicle Commission, LR 36:2288 (October 2010), amended by the Office of the Governor, Used Motor Vehicle Commission, LR (October 2019, LR 46:

**Chapter 28. Definitions
§2801. Definitions**

- A. *Commission* or *the commission* shall refer to the Louisiana Used Motor Vehicle Commission.
- B. The word *person* as used herein shall mean any natural or juridical person, firm, association, corporation,