



# STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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December 11, 2024

## MEMORANDUM

TO: Senator Cameron Henry, Senate President  
Representative Phillip DeVillier, Speaker of the House  
Senator Rick Edmonds, Chair, Senate Committee on Education  
Representative Laurie Schlegel, Chair, House Committee on Education

FROM: Tavares A. Walker, 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 November 20, 2024, Notice of Intent that was promulgated on pages 1698-1701 of the *Louisiana Register*.

The Board has received no public comments 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 February 20, 2025, issue of the *Louisiana Register*.

The following document is attached:

1. A copy of the Notice of Intent.

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

TAW:ell

Attachment (1)

- c: Caroline Tyler, Secretary, Senate Committee on Education  
Elizabeth Borne, Legislative Analyst, House Committee on Education  
Lisa Lovello, Legislative Analyst, House Committee on Education  
Ashley Townsend, Policy Director, Louisiana Department of Education  
Tavares A. Walker, Executive Director, BESE  
Kevin Calbert, Communications Manager, BESE

Tavares A. Walker  
Executive Director

Dr. Cade Brumley  
State Superintendent

### 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 All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.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? No.
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, 2024, to Tavares A. Walker, 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 Tavares A. Walker, 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.

Tavares A. Walker  
Executive Director

## FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Bulletin 132—Louisiana Course Choice Program—Course Choice Program

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

There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. The proposed rule change updates Bulletin 132—*Louisiana Course Choice Program* as a result of passage of Act 91 of the 2024 RS, which provides that each local education agency (LEA) shall make available to all students and parents during the annual course enrollment process for the school system the course catalog as provided by the Louisiana Department of Education (LDOE) and derived from a list of course providers approved by the Board of Elementary and Secondary Education (BESE). Further, if the allocated funds are insufficient to fund all students who seek to enroll in a course under this program, students shall be prioritized as provided in the proposed rule. Additionally, a student shall not be permitted to enroll in a course where a determination was made by the school counselor of the school that the course is not academically appropriate considering the student's chosen graduation pathway or conflicts with the LDOE published planning resources.

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

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change. The rule change does not impact the amount of the annual Supplemental Course Allocation; rather, it clarifies how the program will be administered.

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

There are no anticipated costs or benefits to directly affected persons, small businesses, or nongovernmental groups as a result of the proposed rule change.

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

There is no anticipated effect on competition and employment as a result of the proposed rule change.

Beth Scioneaux  
Deputy Superintendent  
2411#048

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 133—Scholarship Programs  
LA GATOR Scholarship Program Phases  
(LAC 28:CLIII.1506)

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

(BESE) proposes to amend LAC 28:CLIII in Bulletin 133—*Scholarship Programs*. Act 1 of the 2024 Regular Legislative Session created the Louisiana Giving All True Opportunity to Rise (LA GATOR) Scholarship Program to provide educational saving accounts for parental choice in K-12 education. At the August 2024 Board of Elementary and Secondary Education (BESE) meeting, the board approved, as a Notice of Intent, policy revisions to establish the LA GATOR Program. The updates to *Bulletin 133—Scholarship Programs* further expand the program to include regulations specific to phase 2 and phase 3 implementation.

## Title 28

### EDUCATION

#### Part CLIII. Bulletin 133—Scholarship Programs

#### Chapter 15. Louisiana Giving All True Opportunity to Rise (LA GATOR) Scholarship Program

##### §1506. Phase 2 and Phase 3 Implementation

A. In the initial phase of program implementation, student eligibility shall be determined in accordance with §1505 of this Chapter. Upon legislative appropriation of funds sufficient to provide for program participation of all students eligible according to phase 1 criteria, additional applications shall be accepted from students meeting phase 2 eligibility criteria according to this Section. Should sufficient funds exist after all students eligible according to phase 2 criteria have been granted participation, additional applications shall be accepted from students meeting phase 3 eligibility criteria according to this Section.

B. In Phase 2, for a student to be eligible for an ESA, the student must be a resident of Louisiana and meet at least one of the following:

- a. The student is entering kindergarten.
- b. The student was enrolled in a public school for the previous school year.
- c. The student is from a family with a total income at or below four hundred percent of the federal poverty guidelines.

C. In Phase 3, for a student to be eligible for an ESA, the student must be a resident of Louisiana.

D. To be considered for participation, an applicant must submit an application according to a process and timeline outlined by the LDOE and provide information as required by the LDOE.

E. An applicant must attest to and agree with, at a minimum, the following:

1. The applicant has full authority to make this application for the prospective participating student and to attest to and take all of the actions herein listed;

2. The applicant will provide for the education of the participating student in at least the subjects of English language arts (ELA), mathematics, social studies, and science;

3. The applicant will use account funds only for qualified education expenses of the participating student;

4. The applicant will ensure the provision of an education for the participating student that satisfies the compulsory school attendance requirement. Each participating student who fails to comply with the attendance requirements shall be reported to the state director of child welfare and attendance by the participating nonpublic school

or service provider and shall be subject to the provisions of R.S. 17:233 which may include referral to juvenile or family court;

5. The applicant agrees that the student will participate in student assessments as required by BESE policy including arranging transportation to and from the testing location;

6. The applicant agrees to comply with the acceptable uses of ESA funds and all responsibilities as the account holder;

7. The applicant agrees to comply with all statutory and regulatory program requirements;

8. The applicant agrees to immediately disenroll from the LA GATOR program upon enrollment in a public school, home study program, Course Choice Program, or School Choice Program for Certain Students with Exceptionalities;

9. The applicant agrees that the student shall not participate concurrently with a home study program approved by BESE or a home study program registered with LDOE as a nonpublic school not seeking state approval, the Course Choice Program, or the School Choice Program for Certain Students with Exceptionalities;

10. The applicant agrees to share the participating student's personally identifiable, assessment, performance, and attendance information with the LDOE to be used to monitor program effectiveness and for other purposes consistent with state law and policy.

F. In Phase 2 implementation, if allocated funds are insufficient to fund all students eligible for LA GATOR Program participation, an award process shall be established by the LDOE as follows:

1. Students shall be prioritized for participation in the following order:

a. students currently participating in the Louisiana Scholarship Program or the LA GATOR Program;

b. students entering kindergarten;

c. students enrolled in a public school for the previous school year;

d. students from a family with a total income at or below two hundred fifty percent of the federal poverty guidelines and students identified as having a disability under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1401;

e. students from a family with a total income at or below four hundred percent of the federal poverty guidelines;

f. siblings of students currently participating in the LA GATOR Program;

g. other eligible students.

2. Eligible students for whom funding is not available will be placed on a waiting list according to the prioritization criteria in this Subsection.

3. Students placed on a waiting list will be notified of their status and initial position on the waiting list.

G. In Phase 3 implementation, if allocated funds are insufficient to fund all students eligible for LA GATOR Program participation, an award process shall be established by the LDOE as follows:

1. Students shall be prioritized for participation in the following order:

a. students currently participating in the Louisiana Scholarship Program or the LA GATOR Program;

b. students from a family with a total income at or below two hundred fifty percent of the federal poverty guidelines and students identified as having a disability under the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. §1401;

c. students from a family with a total income at or below four hundred percent of the federal poverty guidelines;

d. siblings of students currently participating in the LA GATOR Program;

e. other eligible students.

2. Eligible students for whom funding is not available will be placed on a waiting list according to the prioritization criteria in this Subsection.

3. Students placed on a waiting list will be notified of their status and initial position on the waiting list.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:4037.2; R.S. 17:4037.5; and R.S. 17:4037.7.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

#### **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? Yes.

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? No.

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, 2024, to Tavares A. Walker, 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 Tavares A. Walker, 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.

Tavares A. Walker  
Executive Director

### **FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES**

#### **RULE TITLE: Bulletin 133—Scholarship Programs LA GATOR Scholarship Program Phases**

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

The proposed rule change will not result in increased implementation costs to state or local governmental units. The proposed rule change clarifies rules adopted by the Board of Elementary and Secondary Education (BESE) at its August meeting regarding the Louisiana Giving All True Opportunity to Rise (LA GATOR) scholarship program. The rule change provides regulations applicable to Phase 2 and Phase 3 implementation should the Legislature choose to appropriate funding sufficient to provide accounts for all students eligible in Phase 1.

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

The fiscal impact on revenue collected by local education agencies (LEAs) will vary based on the extent to which students currently funded through the Minimum Foundation Program (MFP) participate in the LA GATOR program and on the extent to which local systems enroll as service providers to provide additional courses or services through the program. While students who leave the public school system will result

in a decrease in revenues for LEAs, students who participate in LA GATOR and use account funds to enroll in services provided by participating LEAs will increase anticipated revenue collections.

SGF revenues may shift depending on how education scholarship accounts impact the annual amount of tax credits claimed for nonpublic school tuition expenses. This tax credit permits parents to annually claim up to \$6,000 of nonpublic school tuition costs.

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

Families of current Student Scholarships for Educational Excellence Program (SSEEP) students should experience little impact, as those students will continue to be funded at the same rate until they graduate or exit the terminal grade of the school in which they are currently enrolled. Families of entering kindergarteners or current public school students who would have chosen to enroll their children in nonpublic school the following year but who choose to participate in the LA GATOR program will benefit from program funding. Families of current nonpublic school students who fall below 400% of the federal poverty guidelines and who participate in the program will benefit by having to fund less of their children's tuition and fees through their personal finances.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Additional competition for student enrollment may result from the program. This will primarily be due to whether or not public schools opt to allow for part-time enrollment for students seeking to participate in specific programs, courses or activities. It is expected these spots, like those in programs targeted towards students with disabilities, will be limited. There is a potential the implementation of LA GATOR will lead to the opening of additional nonpublic education institutions in order to provide services for an increased student population. If this were to occur, increased competition between institutions may result.

Beth Scioneaux  
Deputy Superintendent  
2411#049

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

Bulletin 1903—Louisiana Handbook for Students with Dyslexia—Dyslexia Screening and Assessment (LAC 28:XXXV.110)

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 (BESE) proposes to amend LAC 28:XXXV in *Bulletin 1903—Louisiana Handbook for Students with Dyslexia*. Act 517 of the 2024 Regular Legislative Session requires the promulgation of rules regarding kindergarten dyslexia screening and core assessment, parent notification, and reimbursement criteria.

**Title 28  
EDUCATION**

**Part XXXV. Bulletin 1903—Louisiana Handbook for Students with Dyslexia**

**Chapter 1. General Provisions**

**§110. Core Assessment Requirements**

A. If the results of dyslexia screening pursuant to §109 of this Chapter indicate that a student is at risk for dyslexia, the parent or legal guardian shall be notified within thirty days of the results of the screening, and, if requested by the parent or legal guardian and subject to funding, a core assessment for the diagnosis of dyslexia shall be administered.

1. A parent or legal guardian may only make one request per academic year.

2. If the parent or legal guardian requests the LEA to conduct the core assessment, the LEA must complete the core assessment within 30 business days.

B. The parent may select either the LEA or a vendor or professional approved by the LDOE to administer the core assessment. The administrator of the core assessment, in order to determine whether the student has dyslexia, shall determine through history, observation, and psychometric assessment if there are unexpected difficulties in reading and associated linguistic problems at the level of phonological processing that are unrelated to the student's intelligence, age, and grade level. The core assessment shall not be based on a single test score or specific number of characteristics and shall include all of the following:

1. tests of language, particularly phonemic assessment, real words, and pseudo words, oral reading fluency, and intellectual ability;

2. an academic performance review; and

3. an interview with the student's parent or legal guardian.

C. Vendors and professionals who administer and interpret the core assessments must meet qualifications set forth by the assessment publisher and be trained in administering the assessment, and may include a licensed psychologist, certified school psychologist, licensed certified speech-language pathologist, certified educational diagnostician, clinical psychologists, neuropsychologists, and/or certified academic language therapist. Core assessment publishers determine professionals trained to interpret the assessments.

D. The LDOE shall provide reimbursement for the cost of the assessment, subject to the availability of funding designated for this purpose and in alignment with applicable Louisiana statute and BESE policy.

1. Entities seeking reimbursement for the cost of core assessment must submit a request for reimbursement to the LDOE according to the procedures established for this purpose.

2. The amount of reimbursement provided shall not exceed \$500 per eligible student request, per academic year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:24.9, R.S. 17:392.1, 17:392.3, and 17:392.11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51: