



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

February 10, 2020

MEMORANDUM

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2nd BESE District

Sandy Holloway
3rd BESE District

Tony Davis
4th BESE District

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5th BESE District

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Member-at-Large

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Member-at-Large

Shan N. Davis
Executive Director

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, 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 January 20, 2020, Notice of Intent that was promulgated on pages 84-87 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 April 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, House Committee on Education
Ryan Gremillion, Policy Director, Louisiana Department of Education
Shan N. Davis, Executive Director, BESE
Kevin Calbert, Communications Manager, BESE

employment and/or representative status, he/she underwent a criminal background check as required by La. R.S. 17:15 and La. R.S. 15:587.1.

b. the superintendent or designee certifies that, according to that criminal background check, he/she has not been convicted of, or pled guilty or *nolo contendere* to, any of the criminal offenses set forth in La. R.S. 17:15 and/or La. R.S. 15:587.1(C).

c. the superintendent or designee certifies that he/she will notify the Director of DCFS Licensing in writing if superintendent/designee becomes aware that the individual is convicted of an offense enumerated in La. R.S. 17:15 and/or 15:587.1(C) during the school year which nullifies the affidavit and/or letter.

2. No person who has been convicted of, or pled guilty or *nolo contendere* to any offense included in R.S. 15:587.1, shall be hired by or present in any capacity in the facility.

3. Criminal background clearances are not transferable between owners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 15:587.1.

HISTORICAL NOTE: Promulgated by the Department of Children and Family Services, Licensing Section, LR 46:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Impact Statement

The proposed Rule is not anticipated to have an impact on poverty as defined by R.S. 49:973.

Small Business Analysis

The proposed Rule is not anticipated to have an adverse impact on small businesses as defined in the Regulatory Flexibility Act.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services funded by the state as described in HCR 170 of the 2014 Regular Legislative Session.

Public Comments

All interested persons may submit written comments through February 25, 2020, to Angie Badaeux, Licensing Program Director, Department of Children and Family Services, P. O. Box 3078, Baton Rouge, LA, 70821.

Public Hearing

A public hearing on the proposed Rule will be held on February 25, 2020, at the Department of Children and Family Services, Iberville Building, 627 North Fourth Street, Seminar Room 1-127, Baton Rouge, LA beginning at 9:00 a.m. All interested persons will be afforded an opportunity to submit data, views, or arguments, orally or in writing, at said hearing. Individuals with disabilities who require special services should contact the DCFS Appeals Unit at least seven working days in advance of the hearing. For Assistance, call (225) 342-4120 (Voice and TDD).

Marketa Garner Walters
Secretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: State Central Registry—Child Residential Care, Class B

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

In accordance with Act 243 of the 2019 RLS, the proposed rule requires owners, operators, managers, employees, contractors, and volunteers in Residential Homes, Class B facilities to obtain a federal background check.

The proposed rule change is anticipated to increase expenditures for the Department of Children and Family Services (DCFS) by approximately \$6,177 SGF in FY 20 associated with the publication of the proposed rule. It is not anticipated that any other state or local governmental units will incur costs or savings as a result of this rule change.

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

The proposed rule will also increase revenue in the statutorily dedicated Criminal Identification and Information Fund by \$26 per person that applies for a background check. The Office of State Police administers background checks at a charge of \$39.25 each, of which \$26 will be deposited into the Criminal Identification and Information Fund and \$13.25 will be remitted to the federal government.

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

Owners, operators, managers, employees, contractors, and volunteers in Residential Homes, Class B facilities that currently do not have a federal background check on file will incur a cost of \$39.25 associated with the cost of the background check.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The implementation of this rule may reduce the number of available owners, operators, managers, employees, contractors, and volunteers in Residential Homes, Class B facilities given that individuals that do not pass the federal background check will likely be unemployable in these facilities.

Terri Ricks
Deputy Secretary
2001#036

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and
Education Network
Academic Approval; Accountability; and Coordinated
Enrollment
(LAC 28:CLXVII.Chapter 9)

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:CLXVII, *Bulletin 140—Louisiana Early Childhood Care and Education Network*. Louisiana Revised Statute 17:407.30 establishes the Louisiana Early Childhood Education Fund as a special treasury fund administered by

the Board of Elementary and Secondary Education (BESE). The statute provides that the fund shall be credited with appropriations, as well as public and private grants or donations, and will be awarded to local entities for early childhood care and education. The proposed revisions to *Bulletin 140—Louisiana Early Childhood Care and Education Network*, align BESE policy with R.S. 17:407.30.

Title 28

EDUCATION

Part CLXVII. Bulletin 140—Louisiana Early Childhood Care and Education Network

Chapter 9. Louisiana Early Childhood Education Fund

§901. Purpose, Scope, and Effect

A. The purpose of this Chapter is to set forth the rules and regulations necessary to implement the provisions of R.S. 17:407.30, which creates the Louisiana early childhood education fund (the “fund”) for the purpose of funding certain early childhood education programs.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

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

§903. Eligibility Requirements

A. Subject to legislative appropriation, monies in the fund will be awarded annually to local entities approved by the board.

B. Fund awards are reserved for projects that expand the number of early childhood care and education quality seats for families eligible for the Child Care Assistance Program (CCAP) in type III early learning centers with a performance rating of “proficient” or above and at least one classroom with children age 15 months or younger.

C. Entities eligible to receive fund awards include, but are not limited to, BESE-approved local community networks and early learning centers.

D. Each applicant seeking an award must establish eligibility criteria for the early childhood care and education quality seats financed by local funds that serve as the match for the award. At a minimum, eligibility criteria established by each applicant must contain the following assurances:

1. that only those children whose family income makes them *economically disadvantaged*, as defined in Title 28, Part I, Chapter 11 of the *Louisiana Administrative Code*, shall be eligible for the early childhood care and education quality seats outlined in the applicant’s proposal; and

2. that at least 70 percent of any funding awarded to the applicant will be used to directly fund additional early childhood care and education seats in type III early learning centers with a performance rating of “proficient” or above and at least one classroom with children age 15 months or younger;

3. remaining awarded funding will be used to:

a. expand seats through improved quality; and

b. pay for audit costs required per §909 of this Chapter.

E. Funding is intended to supplement existing funding sources and not to be used to supplant existing state or federal funds.

F. Prior to the start of the 2022-2023 school year, the Early Childhood Care and Education Advisory Council shall review this Chapter and, as necessary, recommend revisions

to BESE based on learnings from the first two years of the fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

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

§905. Application Process

A. Local entities must submit an application to be considered for the allocation of these funds.

1. The application must define local needs using current data and define objective criteria through which the seats will be awarded.

B. Local entities seeking funding for qualifying projects must secure non-state and non-federal matching funds at a rate of at least one-to-one prior to the awarding of monies from the fund.

1. Eligible sources of a match for funds include locally-generated funds, including donations from private entities and allocations from local governmental entities.

2. School readiness tax credits will not be considered an eligible source of match for purposes of receiving funding pursuant to this Chapter.

C. The application submitted by the local entity must be accompanied by appropriate documentation as identified by the department to substantiate the existence of the match funding. Supporting documentation may include but is not limited to, letter(s) of donation from the donor to the local entity demonstrating the intent to donate a specified amount of funding.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

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

§907. Award Process

A. A rubric will be used to identify award recipients, and the following criteria will be considered when recommending award recipients for approval to BESE:

1. Ready Start network status;

2. child care assistance program waitlist for the local entity’s community network;

3. child poverty rates in the local entity’s community network;

4. child care needs in terms of the economic development needs of the parish where the center is located; and

5. the extent to which the proposal increases the availability of high quality learning center seats statewide.

B. All applicants whose submission are selected to receive a funding award must submit documentation to the department to substantiate the existence and possession of the match funds including, but not limited to:

1. copy of check(s) received totaling the required match plus receipt for bank deposit into local entity’s bank account;

2. copy of bank statement which lists the deposit for the required match; or

3. copy of bank statement with balance totaling greater than the required match.

C. The total of all awards in any given year may not exceed the amount legislatively appropriated to the fund.

D. If a balance remains in the fund after every qualifying project under §903.B of this Chapter has been funded, then the board may consider awarding funds for the exclusive use

of type III early learning centers to provide quality care for children who are ages birth through two and whose parents are eligible for the Child Care Assistance Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

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

§909. Audit of Awards

A. A participating local entity must submit to the department an independent limited scope audit conducted by a certified public accountant who has been approved by the legislative auditor. Audit procedures will be developed by the department and will be limited in scope to those records necessary to substantiate that the funding received was utilized in accordance with program requirements and the approved application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

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 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., February 9, 2020, 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 140—Louisiana Early Childhood Care and Education Network Academic Approval; Accountability; and Coordinated Enrollment

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

There will be an increase in expenditures of the Louisiana Department of Education as a result of the proposed changes which implement Acts 353 of 2017 and 223 of 2019. The rule establishes the parameters for grant awards and spending requirements out of the Early Childhood Education Fund. The extent of spending is indeterminate; however, at this point in time, there are no monies in the Fund.

There may be an increase in expenditures of local governmental entities which choose to provide funding as part of the match requirement to apply for allocations out of the fund.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

Local governmental entities which provide match funding may be eligible to receive allocations from the fund, to be distributed to Type III early learning centers for additional slots, quality improvements, and audit expenses.

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

There may be an increase in revenue for Type III early learning centers which qualify for allocations out of the "Louisiana Early Childhood Education Fund." The fund is designed to match non-state, non-federal funds that expand the number of early childhood care and education quality slots for families who are eligible for the Child Care Assistance Program that have at least one classroom with children age fifteen months or younger.

Families who gain an early childhood care and education quality slot as a result of a newly-funded project will benefit from the proposed revisions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The effect on competition and employment is unknown. Increased funding to early learning centers may increase the demand for qualified teachers and other support staff; however, any potential impacts cannot be determined at this time.

Beth Scioneaux
Deputy Superintendent
2001#068

Evan Brasseaux
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Curriculum and Instruction
TOPS University Diploma (LAC 28: CXV.2318 and 2319)

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: CXV, *Bulletin 741—Louisiana Handbook for School Administrators*. Proposed amendments incorporate courses into policy for high school graduation requirements. Additionally, courses required for the TOPS university diploma and the career diploma are aligned with corresponding Cambridge courses.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 23. Curriculum and Instruction

Subchapter A. Standards and Curricula

§2318. The TOPS University Diploma

A. - C.2.j. ...

3. For incoming freshmen in 2014-2015 and beyond who are completing the TOPS university diploma, the minimum course requirements will be the following:

a. - b.iv.(f). ...

c. science—four units:

i. - iii.(c).(iii). ...

(iv). principles of engineering (LSU partnership);

(d). - (g).(iv). ...

(f). Repealed.

(h). - (h).(iv). ...

(v). physics II: Cambridge AICE—AS (honors);

C.3.c.iii.(i).(vi). - D.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 36:1486 (July 2010), LR 37:547 (February 2011), LR 37:1128 (April 2011), LR 37:2129 (July 2011), LR 37:2132 (July 2011), LR 37:3193 (November 2011), LR 38:754, 761 (March 2012), LR 38:1001 (April 2012), LR 38:1584 (July 2012), LR 40:994 (May 2014), LR 40:1328 (July 2014), LR 40:1679 (September 2014), LR 40:2525 (December 2014), LR 41:915 (May 2015), LR 41:1482 (August 2015), LR 42:2126 (October 2015), LR 42:232 (February 2016), LR 42:1062 (July 2016), LR 42:1878 (November 2016), LR 42:2176 (December 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2483 (December 2017), LR 44:263 (February 2018), LR 44:1868 (October 2018), repromulgated LR 44:1998 (November 2018), LR 46:

§2319. The Career Diploma

A. - C.1.h. ...

2. The minimum course requirements for a career diploma for incoming freshmen in 2014-2015 and beyond shall be the following:

a. English—4 units:

i. - iii.(h). ...

(i). literature in English part 2: Cambridge AICE—AS (honors); or

a.iii.(j). - c.ii.(e). ...

(f). principles of engineering;

(g). any AP or IB science course PLTW principles of engineering;

(h). principles of engineering (LSU partnership);

(i). any AP or IB science course;

(j). physics I: Cambridge IGCSE;

(k). biology II: Cambridge AICE—AS (honors);

(l). chemistry II: AICE—AS (honors); or

(m). physics II: Cambridge AICE—AS (honors);

2.d. - 4....

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, 17:183.2, 17:183.3, 17:274, 17:274.1, and 17:395.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1291 (June 2005), amended LR 31:2211 (September 2005), LR 31:3070 (December 2005), LR 31:3072 (December 2005), LR 32:1414 (August 2006), LR 33:429 (March 2007), LR 33:432 (March 2007), LR 33:2050 (October 2007), LR 33:2354 (November 2007), LR 33:2601 (December 2007), LR 34:1607 (August 2008), LR 35:1230 (July 2009), LR 35:1876 (September 2009), LR 35:2321 (November 2009), LR 35:2750 (December 2009), LR 36:1490 (July 2010), LR 37:548 (February 2011), LR 37:1130 (April 2011), LR 37:2130 (July 2011), LR 37:3197 (November 2011), LR 38:761 (March 2012), LR 38:1005 (April 2012), LR 40:2522 (December 2014), LR 41:1482 (August 2015), LR 41:2594 (December 2015), LR 42:232 (February 2016), LR 43:1287 (July 2017), LR 43:2132 (November 2017), LR 43:2484 (December 2017), LR 44:1868 (October 2018), 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 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.