



# 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, 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 December 20, 2020, Notice of Intent that was promulgated on pages 96-98 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, 2021, 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, 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, Chief of Staff, Legislative Affairs and Policy, LDE  
Shan N. Davis, Executive Director, BESE  
Kevin Calbert, Communications Manager, BESE

**James Garvey**  
1<sup>st</sup> BESE District

**Kira Orange Jones**  
2<sup>nd</sup> BESE District

**Sandy Holloway**  
3<sup>rd</sup> BESE District

**Sue Weaver**  
4<sup>th</sup> BESE District

**Ashley Ellis**  
5<sup>th</sup> BESE District

**Ronnie Morris**  
6<sup>th</sup> BESE District

**Holly Boffy**  
7<sup>th</sup> BESE District

**Preston Castille**  
8<sup>th</sup> BESE District

**Belinda Davis**  
Member-at-Large

**Thomas Roque**  
Member-at-Large

**Doris Voittier**  
Member-at-Large

**Shan N. Davis**  
Executive Director

**Cade Brumley**  
State Superintendent

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 135—Health and Safety**

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

There will be costs to local school districts and other public schools associated with the purchase of certain equipment, however these costs are indeterminable. Local costs will vary based on the number of and type of athletic facilities, to the extent schools do not currently have the required equipment, and whether schools choose to implement the proposed requirements (see note below).

The proposed revisions require all school campuses participating in interscholastic sports to monitor the Wet Bulb Globe Temperature (WBGT) and be able to respond to potential heat stroke. Costs associated with implementing WBGT best practices include the purchase of at least one device which measures wet bulb globe temperatures as well as at least one cold tub. Together this equipment may cost as low as \$200 to \$400, although schools may choose to purchase higher quality items. Some schools will need to purchase ice machines for athletic facilities in order to administer cold water immersion and in such cases these costs may be significant. Finally, schools may incur costs if they choose to hire licensed athletic trainers to implement WBGT best practices, although this is not specifically required by the proposed rule.

Note: State law tasks the Board of Elementary and Secondary Education (B.E.S.E.) with promulgating rules needed to implement a comprehensive sports injury management program for student athletes. Per R.S. 40:1087.1(G), "[n]o school or school system shall be required to incur any financial cost related to the implementation of this Section, unless funds are appropriated by the legislature for such purpose." At this point in time, the legislature has not appropriated funds for such activities. It is unknown how many schools already have the required equipment and staff or how many will choose to incur costs despite the lack of specific state appropriation for such purpose.

**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, SMALL BUSINESSES OR  
NONGOVERNMENTAL GROUPS (Summary)**

There will be costs to nonpublic schools associated with the purchase of certain equipment, however these costs are indeterminable. Costs to nonpublic schools will vary based on the number of and type of athletic facilities, to the extent schools do not currently have the required equipment, and whether schools choose to implement the proposed requirements.

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

The proposed revisions may lead to increased employment for licensed athletic trainers and healthcare providers if they are

~~hired by public or nonpublic schools to implement WBGT best practices~~

~~Beth Scioneaux  
Deputy Superintendent  
2101#058~~

~~Alan M. Boxberger  
Staff Director  
Legislative Fiscal Office~~

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 139—Louisiana Child Care and Development Fund  
Programs—CCAP Household Eligibility  
(LAC 28:CLXV.707)**

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 139—Louisiana Child Care and Development Fund Programs*. The proposed amendments provide, for the 2020 calendar year only, an early learning center director or staff member shall only have to verify having worked at the same early learning center for at least 300 hours in order to meet the SRTC work requirement.

**Title 28**

**EDUCATION**

**Part CLXV. Bulletin 139—Louisiana Child Care and  
Development Fund Programs**

**Chapter 7. Administration of School Readiness Tax  
Credits**

**§707. Credit for Early Learning Center Directors and  
Staff**

A. – B. ...

C. Each early learning center director and staff member will also have to verify that he/she has worked at the same early learning center for at least six months in the calendar year and for an average of at least 30 hours per week, unless otherwise approved by the LDE.

1. Due to the COVID-19 pandemic, for the 2020 calendar year, a center director or staff member will only have to verify that he/she has worked at the same early learning center for at least 300 hours in the calendar year in order to meet the work requirement in this Subsection.

D. – E. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:2118 (October 2015), amended by the Board of Elementary and Secondary Education LR 43:1280 (July 2017), 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.

### Public Comments

Interested persons may submit written comments via the U.S. Mail until 12 p.m. (noon), February 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 139—Louisiana Child Care and Development Fund Programs CCAP Household Eligibility

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

The proposed revision will have no financial impact to state or local governmental units. The proposed revision reduces the number of hours an early learning center director or staff member needs in order to meet the School Readiness Tax Credit (SRTC) work requirement.

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

There will be a reduction in the state general fund from state income tax collections as a result of the proposed revisions. Due to the uncertainty of COVID-19 on early childhood centers, the impact is indeterminable; however, it will primarily impact fiscal year 2020-21 revenues.

Current policy establishes that in order to be eligible for the School Readiness Tax Credit (SRTC), early learning center directors and staff members must verify having worked at the same early learning center for at least six months in the calendar year and for an average of at least 30 hours per week, unless otherwise approved by the LDE.

Early learning centers in Louisiana experienced both temporary and permanent closures due to the COVID-19 pandemic, resulting in reduced staff work hours and the number of individuals employed. This in itself would reduce access to the SRTC for center directors and staff during the 2020 calendar year and therefore reduce the fiscal impact to the state general fund. The proposed revision provides for a center director or staff member to verify having worked at the same early learning center for at least 300 hours in order to meet the SRTC work requirement.

Reducing the work requirements may allow both full-time and part-time child care center staff to claim the credit who otherwise would not have been eligible. It is unknown how many individuals will qualify for SRTC as a result of the proposed revision. However, there will be a reduction in state general fund collections to the extent it enables additional individuals to claim the SRTC.

For reference, in FY 2019, 4,886 teachers and directors qualified for the SRTC for a total state revenue loss of \$12.3 million.

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.

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

The proposed revision will result in an economic benefit to early learning center employees who are eligible for the SRTC. In the 2019 tax year, the average SRTC amount claimed was \$2,943.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy revisions will have no effect on competition or employment.

Beth Scioneaux  
Deputy Superintendent  
2101#059

Alan M. Boxberger  
Staff Director  
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network (LAC 28:CLXVII.503)

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*. As a result of the COVID-19 pandemic, the proposed revisions would require, for the 2020-2021 school year only, all infant, toddler, and pre-K classrooms in a publicly-funded site to receive one CLASS® observation conducted by the community network during the school year. Any infant, toddler, and/or pre-K classroom that is scored 4.49 or lower after third party replacement (if applicable) shall then be observed a second time by the community network.

Title 28  
EDUCATION

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

Chapter 5. Early Childhood Care and Education Accountability System

§503. Coordinated Observation Plan and Observation Requirements

A. - B.2.c. ...

3. Required Observations

a. For the 2020-2021 academic year only, all infant, toddler, and pre-K classrooms in a publicly-funded site will receive one CLASS® observation during the school year conducted by the community network.

b. Any infant, toddler, and/or pre-K classroom that receives a fall CLASS® score of 4.49 or lower after third party replacement (if applicable) shall be observed a second time.

c. Following the 2020-2021 academic year, all infant, toddler, and pre-K classrooms in a publicly-funded site will receive two CLASS® observations during the school year conducted by the community network.

d. Following the 2020-2021 academic year, one observation shall occur during the fall observation period, if the classroom is in existence on October 1, and the other shall occur during the spring observation period, if the classroom is in existence on February 1.

e. CLASS® observations conducted by third-party contractors hired by the department shall not count towards this requirement.

f. Infant Classrooms

i. For the 2018-2019 school year, all infant classrooms in a publicly-funded site shall be reported to the department as part of the community network's count of classrooms, and may conduct or allow local or third-party observations as practice.

ii. For the 2019-2020 school year, all infant classrooms in a publicly-funded site shall receive two CLASS® observations during the school year conducted by the community network, but the observations shall not be included in the performance ratings for the 2019-2020 school year.

(a). One observation shall occur during the fall observation period, if the classroom is in existence on October 1, and the other shall occur during the spring observation period, if the classroom is in existence on February 1.

(b). CLASS® observations conducted by third-party contractors hired by the department shall not count towards this requirement.

iii. For the 2020-2021 school year and beyond, all infant classrooms in a publicly-funded site shall receive two CLASS® observations during the school year conducted by the community network.

(a). One observation shall occur during the fall observation period, if the classroom is in existence on October 1, and the other shall occur during the spring observation period, if the classroom is in existence on February 1.

(b). CLASS® observations conducted by third-party contractors hired by the department shall not count towards this requirement.

B.4. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015), amended LR 42:1872 (November 2016), LR 43:2131 (November 2017), LR 44:1440 (August 2018), LR 45:1453 (October 2019), 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.