



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

January 11, 2021

MEMORANDUM

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3rd BESE District

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5th BESE District

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Member-at-Large

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Member-at-Large

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 1707-1709 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 March 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, Policy Director, Louisiana Department of Education
Shan N. Davis, Executive Director, BESE
Kevin Calbert, Communications Manager, BESE

Shan N. Davis
Executive Director

Cade Brumley
State Superintendent

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel (LAC 28: CXLVII. 105, 301 and 305)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposed to amend LAC 28:CXLVII (Bulletin 130). For the 2020-2021 school year, the proposed revisions allow for the qualitative measure of teacher and administrator performance to include a minimum of one observation or site visit. Proposed revisions also allow, for the 2020-2021 school year, learning targets for administrators to be based upon formative assessment data.

Title 28

EDUCATION

Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel

Chapter 1. Overview

§105. Framework for LEA Personnel Evaluation Programs

[Formerly §109]

A. – B.2. ...

3. Observation/Data Collection Process. The evaluator or evaluators of each teacher and administrator shall conduct observations of teacher and administrator practice sufficient to gain a complete picture of performance and impart individualized feedback each year.

a. for the 2020-2021 academic year only, this shall include one announced observation for teachers and administrators.

b. any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time.

c. following the 2020-2021 academic year, this shall include a minimum of two observations per academic year and may include more observations, particularly for teachers or administrators that are not meeting expectations. At least one of these observations shall be announced and shall include a pre- and post-observation conference. One of the observations may be waived for teachers who have earned a rating of highly effective according to the value-added model in the previous year. Following all observations, evaluators shall provide evaluatees with feedback, including areas for commendation as well as areas for improvement. Additional evidence, such as data from periodic visits to the school and/or classroom as well as written materials or artifacts, may be used to inform evaluation.

B.4. – B.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2251 (October 2010), amended LR 38:1215 (May 2012), LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 47:

Chapter 3. Personnel Evaluation

§301. Overview of Personnel Evaluation

A. Personnel evaluation for teachers and administrators shall be composed of two parts. Fifty percent of the evaluation shall be composed of applicable measure(s) of growth in student learning. The remaining 50 percent shall be based upon a qualitative assessment of teacher or administrator performance.

1. For teachers, data derived from the value-added assessment model shall be a factor in measuring growth in student learning for grade levels and subjects for which value-added data are available. If value-added data are available, growth in student learning (50 percent of the total score) shall be comprised of 35 percent value-added data and 15 percent student learning targets. If value-added data are not available, growth in student learning shall be comprised of 50 percent student learning targets. For administrators, the 50 percent of the evaluation based upon growth in student learning shall incorporate a school-wide measure of growth and goal setting for principals is subject to §305.D of this bulletin.

2. For the 2020-2021 academic year only, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include one announced observation for teachers and administrators.

a. any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time.

b. following the 2020-2021 academic year, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance shall include a minimum of two observations or site visits. This portion of the evaluation may include additional evaluative evidence, such as walk-through observation data and evaluation of written work products.

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1215 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1266 (July 2015), LR 43:2480 (December 2017), LR 47:

§305. Measures of Growth in Student

Learning—Learning Targets

A. – D.1. ...

2. For principals, at least one learning target shall be based on overall school performance improvement in the current school year, as measured by the school performance score.

a. for the 2020-2021 academic year only, overall school performance improvement may be measured by the school performance score or by formative assessment data.

3. For principals, at least one learning target shall be based on growth in a component (e.g., ELA or math improvement) of school performance score.

a. for the 2020-2021 academic year only, overall school performance improvement may be measured by the school performance score or by formative assessment data.

D.4 – E.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1216 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1267 (July 2015), LR 47:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the *Louisiana Revised Statutes*, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? No.
4. Will the proposed Rule affect taxes and tax credits? No.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in 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 noon, January 9, 2021, 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 130—Regulations for the Evaluation and Assessment of School Personnel

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

The proposed revisions could impact expenditures of local school districts to the extent teachers or administrators initially rated as Ineffective experience improved performance ratings through their second observation as a result of additional support, however this is not anticipated to be material. Based on the 2018-19 Compass Teacher Results, an estimated 505 (1%) of teachers were rated Ineffective. State law prohibits teachers or administrators rated Ineffective from receiving a higher salary in the year following the evaluation. If any teachers or administrators initially rated Ineffective are able to improve their rating to Effective: Emerging, they would become eligible for salary increases or supplements in the 2021-22 academic year.

In addition, the proposed revisions would allow learning targets for principals and administrators to be based upon either school performance scores or formative assessment data for the 2020-21 academic year. Currently, progress toward student learning targets comprise the student growth component of annual evaluations for principals and administrators. Principals identify a minimum of two student learning targets, based on (a) overall school performance improvement in the current school year, as measured by the school performance score, and (b) growth in a component score of school performance score (such as English Language Arts or mathematics). However, due to the cancellation of 2020 spring testing, 2019-20 school performance scores are unavailable for use in setting student learning targets. Under the proposed revisions, districts may use either 2018-19 school performance scores or formative assessment data to identify student learning targets. According to the LDE, districts already utilize various assessments to measure student learning, though this is likely to vary by grade

and subject matter. Formative assessments may include assessments purchased through vendors, assessments that are embedded in high-quality instructional materials, and teacher-made assessments. Local school districts may incur costs or workload adjustments to the extent they need to contract or develop formative assessments, however this is indeterminable. Given the variability in the types of formative assessments, it is unknown how the use of this data will affect evaluation results for principals and administrators.

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)

Teachers and administrators initially rated as Ineffective may benefit from additional support from school administrators that are not required to conduct a second evaluation for certain personnel during the 2020-21 academic year. To the extent this results in improved performance evaluations, teachers and administrators could potentially receive a salary increase in the 2021-22 academic year.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There are no estimated effects on competition and employment as a result of the proposed revisions.

Beth Scioneaux
Deputy Superintendent
2012#040

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 131—Alternative Education
Schools/Programs Standards (LAC 28:CXLIX. 2101)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposed to amend LAC 28:CXLIX (Bulletin 131). Proposed revisions revise the submission date for the annual report on alternative education schools and programs in Louisiana.

**Title 28
EDUCATION**

**Part CXLIX. Bulletin 131—Alternative Education
Schools/Programs Standards**

**Chapter 21. Alternative Site Authorization and
Approval**

§2101. Approval for Alternative Schools or Programs

A. - A.2.a. ...

b. alternative schools and programs report by January.

A.3. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:100.5.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:402 (March 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.

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

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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.

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1. the staffing level requirements or qualifications required to provide the same level of service;

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