



# STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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January 10, 2022

## 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, 2022, Notice of Intent that was promulgated on pages 1925-1927 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 March 20, 2022, 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  
Ashley Townsend, 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

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 10, 2022, 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 111—The Louisiana School, District, and State Accountability System Interests and Opportunities Index**

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

The proposed revisions will have no impact for the 2021-22 school year which shall serve to establish a baseline for future reporting. There may be future impacts to the extent that the interests and opportunities indicator incentivizes schools to expand course offerings in order to improve their School Performance Scores (SPS). Schools may incur costs to offer a greater variety of courses and extracurricular activities; however, because this index is only worth 5% of the overall SPS, and because schools will be able to select from a wide variety of indicators on which to be scored, any increase in costs is unlikely to be significant. There may be an increased workload for school administrators to annually complete the new interests and opportunities index surveys, as well as for the Department of Education (LDE) staff to finalize the domains and indicators utilized in the index; however, this increased workload is not expected to be significant.

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

The proposed revisions will not have an 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)**

The proposed revisions will not result in costs and/or benefits to directly affected small businesses or nongovernmental groups.

Students in LA may realize benefits if annual completion and usage of the Interests and Opportunities Index results in an expansion of course offerings targeted at training underserved career skills that more closely match a student's interests or aptitudes.

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

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
2110#038

Alan M. Boxberger  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Board of Elementary and Secondary Education**

**Bulletin 130—Evaluation and Assessment of Personnel (LAC 28:CXLVII.105, 301, and 323)**

Editor's Note: This Notice of Intent is being reprinted because of an error upon submission. The original Notice of Intent can be viewed in its entirety on pages 1674-1676 of the November 20, 2021 Louisiana Register.

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 has approved for advertisement amendments to *Bulletin 130 – Evaluation and Assessment of Personnel*. The proposed revisions would require, for the 2021-2022 academic year, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance include one announced observation for teachers and administrators. However, any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time. Further, in August 2021, BESE approved, as a Notice of Intent, revisions to Bulletin 130 in response to Act 275 of the 2021 Regular Legislative Session. Revisions update terminology to refer to "school guidance counselors" as "school counselors." The same update is being made to §323. Job Descriptions.

**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 and 2021-2022 academic years only, this shall include one announced observation for teachers and administrators.

b. ...

c. following the 2021-2022 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 47:354 (March 2021), LR 48:

**Chapter 3. Personnel Evaluation**

**§301. Overview of Personnel Evaluation**

A. - A.1. ..

2. For the 2020-2021 and 2021-2022 academic years 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. ...

b. following the 2021-2022 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 47:354 (March 2021), LR 48:

**§323. Job Descriptions**

[Formerly §339]

A. The local personnel evaluation plan shall contain a copy of the job descriptions currently in use in the LEA. The LEA shall establish a competency-based job description for every category of teacher and administrator pursuant to its evaluation plan. The chart that follows identifies a minimum listing of the categories and titles of personnel for which job descriptions must be developed.

Personnel Category	Position or Title
	certification but does require a minimal education attainment of a bachelor's degree from an accredited institution of higher learning 9. Any employee whose position requires certification, but whose title is not given in this list 10. Any employee who holds a major management position, but who is not required to have a college degree or certification
Instructional Personnel	1. Teachers of Regular and Sp. Ed. students 2. Special Projects Teachers 3. Instructional Coaches and/or Master Teachers
Support Services	1. School Counselors 2. Librarians 3. Therapists
	1. Any employee whose position does not require certification but does require a minimal educational attainment of a bachelor's degree from an accredited institution of higher learning 2. Any employee whose position requires certification, but whose title is not given in this list 3. Any employee who holds a major management position, but who is not required to have a college degree or certification

B. - C.8. ...

**NOTE:** Job descriptions must be reviewed annually. Current signatures must be on file at the central office in the single official file to document the annual review and/or receipt of job descriptions.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:391.10, R.S. 17:3871-3873, R.S. 17:3881-3884, and R.S. 1309-3904.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 36:2252 (October 2010), amended LR 38:1219 (May 2012), LR 38:2361 (September 2012), LR 48:

**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

Personnel Category	Position or Title
Administration	1. Superintendent 2. Assistant Superintendent 3. Director 4. Supervisor 5. Coordinator 6. Principal 7. Assistant Principal 8. Any employee whose position does not require

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 noon, December 10, 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—Evaluation and Assessment of 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%) 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 2022-2023 academic year.

The proposed revisions would require, for the 2021-2022 academic year, the 50 percent of the evaluation that is based on a qualitative measure of teacher and administrator performance include one announced observation for teachers and administrators. However, any teacher or administrator who earns an observation rating of Ineffective or Effective: Emerging shall be observed a second time. Further, in August 2021, BESE approved, as a Notice of Intent, revisions to Bulletin 130 in response to Act 275 of the 2021 Regular Legislative Session. Revisions update terminology to refer to "school guidance counselors" as "school counselors."

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

The proposed revisions will not have an 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)

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 2021-22 academic year. To the extent this results in improved performance evaluations, teachers and administrators could potentially receive a salary increase in the 2022-23 academic year.

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

The proposed revisions will not have an effect on competition and employment.

Beth Scioneaux  
Deputy Superintendent  
2112#039

Alan M. Boxberger  
Staff Director  
Legislative Fiscal Office

#### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

#### Bulletin 746—Louisiana Standards for State Certification of School Personnel (LAC 28:CXXXI.Chapters 1-25)

Editor's Note: This Notice of Intent is being reprinted because of an error upon submission. The original Notice of Intent can be viewed in its entirety on pages 1676-1742 of the November 20, 2021 Louisiana Register.

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 has LAC 28:CXXXI in Bulletin 746—Louisiana Standards for State Certification of School Personnel. The proposed revisions: adopt new high school and middle school Math Praxis exams; remove the requirement that teaching experience be in an educator area of certification as a condition of advancing a teaching certificate; require teacher preparation providers to submit all practitioner license (PL) applications; allow the issuance of Temporary Authority to Teach (TAT) certifications to applicants who fail to meet minimum grade point average requirements, contingent upon