



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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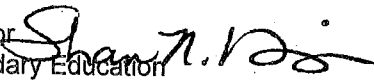
Thomas Roque
Member-at-Large

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Member-at-Large

July 12, 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 June 20, 2021, Notice of Intent that was promulgated on pages 754-761 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 September 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

one child is present. The proposed revision provides that a minimum of two staff members be present at an early learning center when more than four children are present. This revision will result in the need for fewer staff members in early learning centers, which will result in cost savings to early learning centers. The revisions also reduce the indoor useable space requirements from 35 square feet to 25 square feet per child if every child in the space is age 4 or above. However, the extent of such impacts is indeterminate at this time.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Beth Scioneaux
Deputy Superintendent
2106#046

Alan 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.103, 309, 311 and 313)

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 include updates in response to recent federal monitoring findings, early learning center requirements, and additional clarification for providers. Draft revisions of Bulletin 139 were endorsed by the Early Childhood Care and Education (ECCE) Advisory Council in January 2021.

Title 28
EDUCATION

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

Chapter 1. Child Care Assistance Program

§103. Definitions

Child Care Health Consultant—qualified health and safety professional approved by LDH to provide training, consultation, and technical assistance to in- and out-of-home child care facilities and early childhood education staff (and parents) on health and safety topics.

Group Size—the number of children assigned to a teacher or team of teachers occupying an individual classroom or well-defined space within a large room.

Key Orientation Training Module 1—a self-paced, online training provided by the LDE for new providers and staff that addresses early childhood professionalism, health and safety, licensing and hazards.

Key Orientation Training Module 2—a self-paced, online training provided by the LDE for new providers and staff that addresses child development, early learning and development standards (ELDS), and learning activities.

Key Orientation Training Module 3—a self-paced, online training provided by the LDE for new providers and staff

that addresses teacher-child interaction, child guidance, and classroom management.

Non-Vehicular Excursions—any activity that takes place away from the home that is within a safe, reasonable, walking distance from the home, and that does not require transportation in a motor vehicle and does not include walking with children to and from schools.

Supervision—the function of observing, overseeing, and guiding a child or group of children, that includes awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed.

Unexplained Absence—an absence for which the head of household has not provided verbal or written notification to the provider or the department about the absence.

Water Activity—a water-related activity in which children are in, on, near and accessible to, or immersed in, a body of water, including but not limited to a swimming pool, wading pool, water park, river, lake, or beach.

Water Play Activity—water-related activity in which there is no standing water, including but not limited to fountains, sprinklers, water slip-and-slides and water tables.

Written—includes hard-copy and electronic form.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR part 98 and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2109 (October 2015), amended LR 42:42 (January 2016), LR 42:1870 (November 2016), LR 43:1279 (July 2017), LR 44:257 (February 2018), effective March 1, 2018, LR 44:800 (April 2018), LR 47:

Chapter 3. CCAP Provider Certification

§309. Specific Certification and Registration

Requirements for Family Child Care Providers

A. - A.9. ...

10. Medication Administration Training. Provide documentation of current medication administration training with a child care health consultant approved by LDH.

11. Pre-Service Orientation Training. Complete four hours of pre-service orientation training that includes the LDE Key Orientation Training Modules 1, 2 and 3 and DCFS' online Mandate Reporter training prior to initial certification, maintain documentation verifying completion of the training, and submit the documentation with the application for certification to the LDE.

a. The pre-service orientation training shall at a minimum include information on the following:

i. general emergency preparedness, including natural disasters and man-caused disasters;

ii. professionalism;

iii. health and safety, including daily observations, supervision regulations, daily attendance, child-to-staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks, and recognition and reporting of child abuse and neglect;

iv. administration of medication consistent with standards for parental consent;

v. prevention and response to emergencies due to food and allergic reactions;

- vi. appropriate precautions in transporting children, if applicable;
- vii. public health policies, including prevention and control of infectious diseases and immunization information;
- viii. handling and storage of hazardous materials and appropriate disposal of bio-contaminants;
- ix. pediatric first aid and cardiopulmonary resuscitation (CPR);
- x. prevention of sudden infant death syndrome and use of safe sleep practices;
- xi. outdoor play practices;
- xii. environmental safety;
- xiii. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;
- xiv. child release procedures; and
- xv. critical incident procedures.

12. Continuing Training

- a. Annually complete 12-clock hours of training in safety and health topics and job-related subject areas approved by the LDE. Continuing training shall be completed with LDE approved trainers.
- b. Annually complete DCFS' online Mandated Reporter Training.
- c. Documentation verifying completion of all required trainings shall be maintained onsite by the provider, whether as hard copies or in electronic form, and made available for inspection upon request by the LDE.
- d. Pre-service orientation training, infant/child/adult CPR, pediatric first aid training, and medication administration training may count as annual training requirements in the certification period in which the training is completed.

13. Child Daily Attendance. A daily attendance record for children shall be maintained that shall:

- a. include the child's first and last name, arrival and departure times, and first and last name of person or entity to whom the child is released;
- b. accurately reflect children in care at any given time; and
- c. be used to sign in and out if a child leaves and returns to the home during the day.

14. Transportation. If transportation is provided, the provider shall:

- a. use child safety restraints, such as car seat belts, child restraining seats, infant carrier seats, etc., as required by law in the transportation of children;
- b. take precautions necessary to ensure the safety of children being transported;
- c. develop written emergency procedures and actions to be taken in the event of an accident or breakdown;
- d. maintain a current driver's license and current automobile insurance as required by law;
- e. obtain written permission from a parent to transport the child; and
- f. maintain a transportation log for each trip to be used to track children during transportation, which shall include the child's name, the date, time and place of pick up and drop off, and the name of the person to whom a child is released.

15. Medication Administration

- a. No medication or special medical procedure shall be administered to a child unless authorized in writing by the parent.
- b. Such authorization shall include the name of the child, drug name and strength, date(s) to be administered, directions for use, including route, dosage, frequency, time and special instructions if applicable, and signature of parent and date of signature.

16. Immunizations. Obtain satisfactory evidence of immunization against, or an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health and Hospitals:

- a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or
- b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

17. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

18. Building and Physical Premises. Identify and protect children from safety hazards in the residence and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

19. Emergency Preparedness Disaster Plan. Develop, practice and train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

- a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;
- b. procedures for all adults living in, or working in the residence where care is provided, or working on the property where care is provided; and
- c. posting in a visibly accessible area all appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the residence in which care is provided.

20. First Aid Supplies. Maintain first aid supplies in the residence.

21. Inspections. Allow inspection of the residence where care is provided by department staff and other authorized inspection personnel and parents of children in care, during normal working hours or when children are in care.

22. Supervision. Children shall be supervised at all times in the home, on the property, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

23. Behavior Management

- a. Provider shall develop, implement and follow a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center.

- b. The behavior management policy shall prohibit:
 - i. physical or corporal punishment which includes but is not limited to yelling, slapping spanking, yanking, pinching or other measures producing physical pain, putting anything in the mouth of the child, requiring a child to exercise, or placing a child in an uncomfortable position;
 - ii. verbal abuse;
 - iii. the threat of prohibitive action even if there is no intent to follow through with the threat;
 - iv. being disciplined by another child, being bullied by another child or being deprived of food or beverages;
 - v. being restrained in high chairs or feeding tables for disciplinary purposes; and
 - vi. having active play time withheld for disciplinary purposes, except timeout may be used during active play time for an infraction incurred during the playtime.

c. Time out:

- i. time out shall not be used for children under age two;
- ii. a time out shall take place within sight of staff;
- iii. the length of each time out shall be based on the age of the child and shall not exceed one minute per year of age.

24. Group Size. A provider may care for a maximum of six children.

25. Child-to-Staff Ratios. The maximum child-to-staff ratio shall be 6:1.

26. Safe Sleep Practices

- a. Only one infant shall be placed in a crib.
- b. All infants shall be placed on their backs for sleeping.
 - i. Written authorization from a physician is required for any other sleeping position.
 - ii. Written notice of the specifically authorized sleeping position shall be posted on or near the crib.
- c. Infants shall not be placed in positioning devices, unless the provider has written authorization from a physician to use a positioning device.
- d. Written authorization from a physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is allowed to remain in said device.
- e. "Back to Sleep" signs shall be posted in the room where infants sleep.
- f. Infants who use pacifiers shall be offered their pacifier when they are placed to sleep, but it shall not be placed back in the mouth once the child is asleep.
- g. Bibs shall not be worn by any child while asleep.
- h. Nothing shall be placed over the head or face of an infant.
- i. A safety approved crib shall be available for each infant.

27. Health Related Policies. The provider shall have a written copy of all health-related policies including policies regarding accidents, allergic reactions, fever, illness, immunizations, and infection and injuries, and shall provide a copy to the parent or guardian of each child in care.

28. Immediate Parental Notification. The parent shall be immediately notified in the following circumstances:

- a. blood not contained in an adhesive strip;
- b. head or neck or eye injury;
- c. human bite that breaks the skin;
- d. animal bite;
- e. impaled object;
- f. broken or dislodged teeth;
- g. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);
- h. unusual breathing;
- i. symptoms of dehydration;
- j. temperature reading over 101 degrees oral, 102 degrees rectal, or 100 degrees axillary; or
- k. injury or illness requiring professional medical attention.

29. Items that Can Be Harmful to Children. Items such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils that can be harmful to children shall kept in a locked cabinet or other secure place that ensures they are inaccessible to children

B. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1, and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2111 (October 2015), amended LR 42:2173 (December 2016), LR 43:1279 (July 2017), LR 44:258 (February 2018), effective March 1, 2018, LR 47:

§311. Specific Certification Requirements for In-Home Child Care Providers

A. - A.8. ...

9. Medication Administration Training. Provide documentation of current medication administration training with a child care health consultant approved by LDH.

10. Pre-Service Orientation Training. Complete the following four hours of pre-service orientation training that includes the LDE Key Orientation Training Modules 1, 2, and 3 and DCFS Mandated Reporter training prior to initial certification, maintain documentation verifying completion of the training and submit the documentation with the application for certification to the LDE.

- a. The pre-service orientation training shall at a minimum include information on the following:
 - i. general emergency preparedness, including natural disasters and man-caused disasters;
 - ii. professionalism;
 - iii. health and safety, including daily observations, supervision regulations, daily attendance, child-to-staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks, and recognition and reporting of child abuse and neglect;
 - iv. administration of medication consistent with standards for parental consent;
 - v. prevention and response to emergencies due to food and allergic reactions;
 - vi. appropriate precautions in transporting children, if applicable;
 - vii. public health policies, including prevention and control of infectious diseases and immunization information;
 - viii. handling and storage of hazardous materials and appropriate disposal of bio-contaminants;
 - ix. pediatric first aid and cardiopulmonary resuscitation (CPR);

- x. prevention of sudden infant death syndrome and use of safe sleep practices;
- xi. outdoor play practices;
- xii. environmental safety;
- xiii. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;
- xiv. child release practices; and
- xv. critical incident practices and licensing regulations;

11. Continuing Training

a. Annually complete 12-clock hours of training in safety and health topics and job-related subject areas approved by the LDE. Continuing training shall be conducted by LDE approved trainers. The LDE shall keep a registry of approved trainers.

b. Annually complete DCFS' online Mandated Reporter Training.

c. Documentation verifying completion of required trainings shall be maintained onsite by the provider, whether as hard copies or in electronic form, and made available for inspection upon request by the department.

d. Pre-service orientation training, infant/child/adult CPR, pediatric first aid training, and medication administration training may count as annual training requirements in the certification period in which completed.

12. Children's Daily Attendance. A daily attendance record for children shall be maintained that shall accurately reflect children in care at any given time.

13. Transportation. If transportation is provided, the provider shall:

a. use child safety restraints, such as car seat belts, child restraining seats, infant carrier seats, etc., as required by law in the transportation of children in care;

b. take precautions necessary to ensure the safety of children being transported;

c. develop written emergency procedures and actions to be taken in the event of an accident or breakdown;

d. maintain a current driver's license and current automobile insurance as required by law;

e. obtain written permission from a parent to transport the child; and

f. maintain a transportation log for each trip to be used to track children during transportation, which shall include the child's name, the date, time and place of pick up and drop off, and the name of the person to whom a child is released.

14. Medication Administration

a. No medication or special medical procedure shall be administered to a child unless authorized in writing by the parent.

b. Such authorization shall include the name of the child, drug name and strength, date(s) to be administered, directions for use, including route, dosage, frequency, time and special instructions if applicable, signature of parent and date of signature.

15. Immunizations. Obtain satisfactory evidence of immunization against, or of an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health:

a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or

b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

16. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

17. Building and Physical Premises. Identify and protect children from safety hazards in the home and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

18. Emergency Preparedness Disaster Plan. Develop, practice and train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;

b. procedures for all adults living in, or working in the residence where care is provided, or working on the property where care is provided; and

c. posting in a visibly accessible area all appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, and the physical address and phone number for the residence in which care is provided.

19. First Aid Supplies. Maintain first aid supplies in the home.

20. Inspections. Allow inspection of the home where care is provided by LDE staff and other authorized inspection personnel during normal working hours or when children are in care.

21. Supervision. Children shall be supervised at all times in the home, on the property, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

22. Behavior Management.

a. Provider shall develop, implement and follow a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center.

b. The behavior management policy shall prohibit:

- i. physical or corporal punishment which includes but is not limited to yelling, slapping, spanking, yanking, pinching or other measures producing physical pain, putting anything in the mouth of the child, requiring a child to exercise, or placing a child in an uncomfortable position;

- ii. verbal abuse;
- iii. the threat of prohibitive action even if there is no intent to follow through with the threat;

- iv. being disciplined by another child, being bullied by another child or being deprived of food or beverages;

- v. being restrained in high chairs or feeding tables for disciplinary purposes; and

- vi. having active play time withheld for disciplinary purposes.

- c. Time out:
 - i. time out shall not be used for children under age two;
 - ii. a time out shall take place within sight of staff;
 - iii. the length of each time out shall be based on the age of the child and shall not exceed one minute per year of age;

23. Group Size. A provider may care for a maximum of six children.

24. Child-to-Staff Ratios. The maximum child-to-staff ratio shall be 6:1.

25. Safe Sleep Practices

- a. Only one infant shall be placed in a crib.
- b. All infants shall be placed on their backs for sleeping.
 - i. Written authorization from a physician is required for any other sleeping position.
 - ii. Written notice of the specifically authorized sleeping position shall be posted on or near the crib.
- c. Infants shall not be placed in positioning devices, unless the provider has written authorization from a physician to use a positioning device.
- d. Written authorization from a physician is required for a child to sleep in a car seat or other similar device and shall include the amount of time that the child is allowed to remain in said device.
- e. "Back to Sleep" signs shall be posted in the room where infants sleep.
- f. Infants who use pacifiers shall be offered the pacifier when placed to sleep, but shall not be placed back in the mouth once the child is asleep.
- g. Bibs shall not be worn by any child while asleep.
- h. Nothing shall be placed over the head or face of an infant.
- i. A safety approved crib shall be available for each infant.

26. Health Related Policies. The provider shall have a written copy of all health-related policies including policies regarding accidents, allergic reactions, fever, illness, immunizations, and infection and injuries, and shall provide a copy to the parent or guardian of each child in care.

27. Immediate Parental Notification. The parent shall be immediately notified in the following circumstances:

- a. blood not contained in an adhesive strip;
- b. head or neck or eye injury;
- c. human bite that breaks the skin;
- d. animal bite;
- e. impaled object;
- f. broken or dislodged teeth;
- g. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);
- h. unusual breathing;
- i. symptoms of dehydration;
- j. temperature reading over 101 degrees oral, 102 degrees rectal, or 100 degrees axillary; or
- k. injury or illness requiring professional medical attention.

28. Items that Can Be Harmful to Children. Items such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils that can be harmful to children shall kept in a locked

cabinet or other secure place that ensures items are inaccessible to children.

B. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98.43, R.S. 15:587.1, and R.S. 17:407.71.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2112 (October 2015), amended LR 42:2174 (December 2016), LR 43:1280 (July 2017), LR 44:260 (February 2018), effective March 1, 2018.

§313. Specific Certification Requirements for Public School and BESE-Approved Nonpublic School Child Care Centers

A. To be certified as a CCAP provider, in addition to the requirements in §305 of this Part, a public school or BESE-approved nonpublic school day care center must meet the following requirements:

1. *Brumfield v Dodd* Approval. a BESE-approved nonpublic school day care center must also be *Brumfield v Dodd*-approved.
2. State Fire Marshal. Provide written verification of current State Fire Marshal approval.
3. Determination of Eligibility for Child Care Purposes. Provide documentation of a CCCBC-based determination of eligibility for child care purposes by the LDE for required persons in compliance with Chapter 18 of Bulletin 137, Louisiana. Early Learning Center Licensing Regulations.
4. CPR. Provide documentation of current certification in infant, child and adult CPR.
5. Pediatric First Aid. Provide documentation of current certification in pediatric first aid.
6. Medication Administration Training. Provide documentation of current medication administration training with a child care health consultant approved by LDH.
7. Pre-Service Orientation Training. Each staff member shall complete four hours of pre-service orientation training that includes the LDE Key Orientation Training Modules 1, 2 and 3 and DCFS' online Mandate Reporter training prior to initial certification, maintain documentation verifying completion of the training, and submit the documentation with the application for certification to the LDE.
 - a. The pre-service orientation training shall at a minimum include information on the following
 - i. general emergency preparedness, including natural disasters and man-caused disasters;
 - ii. professionalism;
 - iii. health and safety, including daily observations, supervision regulations, daily attendance, child-to-staff ratios, improper discipline, prohibited discipline, prevention of shaken baby syndrome, prevention of abusive head trauma and child maltreatment, food safety, choking risks, and recognition and reporting of child abuse and neglect;
 - iv. administration of medication consistent with standards for parental consent;
 - v. prevention and response to emergencies due to food and allergic reactions;
 - vi. appropriate precautions in transporting children, if applicable;
 - vii. public health policies, including prevention and control of infectious diseases and immunization information;

- viii. handling and storage of hazardous materials and appropriate disposal of bio-contaminants;
- ix. pediatric first aid and cardiopulmonary resuscitation (CPR);
- x. prevention of sudden infant death syndrome and use of safe sleep practices;
- xi. outdoor play practices;
- xii. environmental safety;
- xiii. building and physical premises safety, including identification of and protection from hazards, bodies of water and vehicular traffic;
- xiv. child release practices; and
- xv. critical incident practices and licensing regulations;

8. Continuing Training.

- a. Annually complete 12-clock hours of training in safety and health topics and job-related subject areas approved by the LDE. Continuing training shall be conducted by LDE approved trainers. The LDE shall keep a registry of approved trainers.
- b. Annually complete DCFS' online Mandated Reporter Training.
- c. Documentation verifying completion of all required trainings shall be maintained onsite by the center, whether as hard copies or in electronic form, and made available for inspection upon request by the LDE.
- d. Pre-service orientation training, infant/child/adult CPR, pediatric first aid training, and medication administration training may count as annual training requirements in the certification period in which completed.
- e. The three hours of training by a child care health consultant on infectious diseases, health and safety, and/or food service preparation required in LAC 51:XXI.301.A.9 shall not count towards the annual training requirements.

9. Children's Daily Attendance. A daily attendance record for children shall be maintained that shall:

- a. include the child's first and last name, arrival and departure times, and first and last name of person or entity to whom the child is released;
- b. accurately reflect children in care at any given time; and
- c. be used to sign in and out if a child leaves and returns to the home during the day.

10. Transportation. If transportation is provided, the center shall:

- a. use child safety restraints, such as car seat belts, child restraining seats, infant carrier seats, etc., as required by law in the transportation of children in care;
- b. take precautions necessary to ensure the safety of children being transported;
- c. develop written emergency procedures and actions to be taken in the event of an accident or breakdown;
- d. maintain a current driver's license and current automobile insurance as required by law;
- e. obtain written permission from a parent to transport the child; and
- f. maintain a transportation log for each trip to be used to track children during transportation, which shall include the child's name, the date, time and place of pick up and drop off, and the name of the person to whom a child is released.

11. Medication Administration

- a. No medication or special medical procedure shall be administered to a child unless authorized in writing by the parent.
- b. Such authorization shall include the name of the child, drug name and strength, date(s) to be administered, directions for use, including route, dosage, frequency, time and special instructions if applicable, signature of parent and date of signature.

12. Immunizations. Obtain satisfactory evidence of immunization against, or an immunization program in progress, for vaccine-preventable diseases for each child in care, according to the schedule approved by the Office of Public Health, Department of Health and Hospitals:

- a. if vaccination is contraindicated for medical reasons, the parent shall provide a written statement from a physician indicating said medical reasons; or
- b. if the parent objects to the immunizations for any other reason, the parent shall provide a written statement of dissent.

13. Hazardous Materials. Keep items that can be harmful to children, such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils in a secure place that is inaccessible to children.

14. Building and Physical Premises. Identify and protect children from safety hazards in the residence and on the premises, such as uncovered electrical outlets, strings and cords, bodies of water, and vehicular traffic.

15. Emergency Preparedness Disaster Plan. Develop, practice, train on, and follow, a written emergency preparedness disaster plan that includes at a minimum:

- a. procedures for evacuation, relocation, shelter-in-place, lock-down, communication and reunification with families, continuity of operations, accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions;
- b. procedures for all adults living in, working in, or working on the residence or property where care is provided; and
- c. posting in a visibly accessible area all appropriate emergency phone numbers, such as fire and police, hospitals and Louisiana Poison Control, as well as the physical address and phone number for the residence in which care is provided.

16. First Aid Supplies. Maintain first aid supplies at the center.

17. Supervision. Children shall be supervised at all times in the facility, in the yard, on field trips, on non-vehicular excursions, and during all water activities and water play activities.

18. Behavior Management.

- a. Center shall develop, implement and follow a written behavior management policy describing the methods of behavior guidance and management that shall be used at the center.
- b. The behavior management policy shall prohibit:
 - i. physical or corporal punishment which includes but is not limited to yelling, slapping spanking, yanking, pinching or other measures producing physical

pain, putting anything in the mouth of the child, requiring a child to exercise, or placing a child in an uncomfortable position;

- ii. verbal abuse;
 - iii. the threat of prohibitive action even if there is no intent to follow through with the threat;
 - iv. being disciplined by another child, being bullied by another child or being deprived of food or beverages;
 - v. being restrained in high chairs or feeding tables for disciplinary purposes; and
 - vi. having active play time withheld for disciplinary purposes.
- c. Time out:
- i. time out shall not be used for children under age two;
 - ii. a time out shall take place within sight of staff; and
 - iii. the length of each time out shall be based on the age of the child and shall not exceed one minute per year of age.

19. Child to Staff Maximum Ratios. The maximum child to staff ratios are as follows.

| Maximum Child-to-Staff Ratios | |
|-------------------------------|-------|
| Ages of Children | Ratio |
| 3 years | 13:1 |
| 4 years | 15:1 |
| 5 years | 19:1 |
| 6 years and up | 23:1 |

20. Group Size—The maximum group sizes are as follows.

| Maximum Group Sizes | |
|---------------------|--------------------|
| Age of Children | Maximum Group Size |
| 3 years | 26 |
| 4 years | 30 |
| 5 years | 38 |
| 6 years and up | 46 |

21. Health-Related Policies. The center shall have a written copy of all health-related policies including policies regarding accidents, allergic reactions, fever, illness, immunizations, and infection and injuries, and shall provide a copy to the parent or guardian of each child in care.

22. Immediate Parental Notification. The parent shall be immediately notified in the following circumstances:

- a. blood not contained in an adhesive strip;
- b. head or neck or eye injury;
- c. human bite that breaks the skin;
- d. animal bite;
- e. impaled object;
- f. broken or dislodged teeth;
- g. allergic reaction skin changes (e.g. rash, spots, swelling, etc.);
- h. unusual breathing;
- i. symptoms of dehydration;
- j. temperature reading over 101 degrees oral, 102 degrees rectal, or 100 degrees axillary; or
- k. injury or illness requiring professional medical attention.

23. Items that Can Be Harmful to Children. Items such as medications, poisons, cleaning supplies and chemicals, and equipment, tools, knives and other potentially dangerous utensils that can be harmful to children shall kept in a locked cabinet or other secure place that ensures the items are inaccessible to children.

24. Inspections. Allow inspection of the facility where care is provided by LDE staff and other authorized inspection personnel during normal working hours and when children are in care.

25. Monitoring. LDE will monitor compliance at a minimum annually.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98 and R.S. 17:407.26.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2113 (October 2015), amended LR 42:2174 (December 2016), LR 44:261 (February 2018), effective March 1, 2018.

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. (noon), July 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

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

The proposed rule change is not anticipated to increase expenditures for state or local governmental units.

The proposed regulations address changes to correct findings resulting from on-site federal monitoring of the Department of Education (LDE) conducted in March 2019 and to clarify existing regulations. These provide for definitions and changes to specific certification and registration requirements for Family and In-Home Child Care Providers.

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

There are no estimated impacts on revenue collections of state or local governmental units 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 may be an increased workload for child care providers for staff to take the required online orientation training provided by LDE as well as the Mandated Reporter training provided by DCFS. While the training is available at

no cost to providers, the three LDE training modules take approximately one hour each to complete. The extent to which these modules will take longer to complete than any training they may replace is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Beth Scioneaux
Deputy Superintendent
2106#047

Alan 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.509, 511 and 512)

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: extend 2019-2020 Performance Scores and Ratings for sites where this score is higher than the 2020-2021 Performance Score, mandate Site Improvement Planning (SIP) participation for sites that score below 3.75 in 2020-2021; ensure classrooms are equally weighted and provide unique treatment for classrooms that were not required to receive a spring local observation; and abstain from publishing Community Network Performance Scores as well as honor rolls for sites rated “excellent” as well as those making significant growth.

Title 28 EDUCATION

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

Chapter 5. Early Childhood Care and Education Accountability System

§509. Performance Rating Calculations for Publicly-Funded Sites

A. - A.2. ...

a. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, the performance rating for each site which received at least one observation during 2020-2021 shall be based on the higher of the published 2019-2020 performance rating and the 2020-2021 performance rating calculated for the site.

i. The LDE shall share performance summaries based on 2020-2021 observations for informational purposes only.

ii. Sites not receiving any observations during the 2020-2021 school year shall not receive a performance rating.

A.3. - B.3. ...

4. Exception due to the COVID-19 pandemic with regard to observation completion and other associated challenges. For the 2020-2021 school year only, a classroom that does not have a second observation because the classroom received a fall CLASS® score of 4.50 or higher