



# 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

June 10, 2020

## MEMORANDUM

**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

**Tony Davis**  
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

**Thomas Roque**  
Member-at-Large

**Belinda Davis**  
Member-at-Large

**Doris Voitier**  
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 May 20, 2020, Notice of Intent that was promulgated on pages 708-710 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 August 20, 2020, issue of the *Louisiana Register*.

The following document is attached:

1. A copy of the Notice of Intent.

Please contact Shannon Rawson at (225) 342-5841 if the Board may be of any assistance to you concerning this Rule.

SND:slr

Attachment (1)

- c: Shalyric Self, Senior Analyst, Senate Committee on Education  
Cheryl Serrett, Analyst, Senate Committee on Education  
Elizabeth Borne, Senior 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

### 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 the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule 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 one hundred 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 total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on 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, June 9, 2020, 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 741—Louisiana Handbook for School Administrators—Diploma Integrity Individual Graduation Plans and Credit Recovery Courses and Units

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
It is unknown whether local education agencies (LEAs) that offer credit recovery programs will incur additional costs in order to ensure each course is taught by a certified teacher. LEAs are not required to develop credit recovery programs and the Department of Education does not have data on the number of courses that would be impacted by this requirement. To the extent a credit recovery course is currently taught by a paraprofessional, teacher aide, or other position, districts may incur additional costs associated with higher salary levels for certified staff. However, some districts may experience reduced costs if fewer students enroll in credit recovery courses due to the limit of two courses per year. In addition, high school counselors may experience increased workload to finalize individual graduation plans for each graduating senior, upload academic records data to the state system, and post-graduation dates, although this is indeterminable.
- 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)  
There are no estimated costs and/or economic benefits to directly affected persons or non-governmental groups as a result of the proposed revisions.
- 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  
2005#034

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office

### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for  
Nonpublic School Administrators  
Carnegie Credit and Credit Flexibility  
Health and Physical Education  
(LAC 28:LXXIX.2102, 2109, 2319, and 2320)

In accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and R.S. 17:6(A)(10), the Board of Elementary and Secondary Education proposes to amend LAC 28: CXV (Bulletin 741) and LAC 28: CLXIII (Bulletin 138). Proposed amendments will give nonpublic administrators increased flexibility in the awarding of Carnegie credit, regarding health and physical education, to students enrolled in nonpublic schools.

**Title 28  
EDUCATION**

**Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana  
Handbook for Nonpublic School Administrators**

**Chapter 21. Curriculum and Instruction  
Subchapter A. General**

**§2102. Carnegie Credit and Credit Flexibility**

A. Schools may permit students to earn Carnegie credit as middle school students in all courses except physical education.

B. - F.1. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, and 17:22(6).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1444 (June 2013), amended LR 40:276 (February 2014), LR 40:1682 (September 2014), LR 41:1268 (July 2015), LR 46:

**Subchapter C. Secondary Schools**

**§2109. High School Graduation Requirements**

A. - D.6.j. ...

7. physical education—1 1/2 units in accordance with §2319.A of this Part;

8. health education—1/2 unit;

9. electives—3 units;

10. total—24 units.

E. - F.3.b. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, and 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2351 (November 2003), amended LR 30:2776 (December 2004), LR 31:3081 (December 2005), LR 34:2099 (October 2008), LR 36:2849 (December 2010), LR 37:2142, 2144 (July 2011), repromulgated LR 37:2390 (August 2011), amended LR 37:2597 (September 2011), LR 38:769 (March 2012), LR 38:1008 (April 2012), LR 39:1444 (June 2013), LR 40:1682 (September 2014), LR 40:2535 (December 2014), LR 41:915 (May 2015), LR 41:1485 (August 2015), LR 41:2127 (October 2015), LR 42:1064 (July 2016), LR 43:1289 (July 2017), LR 45:38 (January 2019), LR 45:1456 (October 2019), LR 46:

**Chapter 23. High School Program of Studies**

**§2319. Physical Education**

A. One and one-half units of physical education will be required for graduation, including:

1. physical education I and II;

2. adapted physical education I and II for eligible special education students;

3. JROTC I, II, III, or IV; or

4.a. physical education I—1 unit; and

b. marching band, extracurricular sports, cheering, or dance team—1/2 unit.

B. Physical education course offerings are as follows.

Physical Education Courses	
Course Title(s)	Units
Adapted Health and Physical Education I, II, III, IV	1 each
Physical Education I, II, III, IV	1 each
Marching Band	1/2
***	

1. The required units of physical education in Subsection A of this Section must be earned in grades 9-12.

2. - 3. Repealed.

C. No more than four units of physical education are allowed for meeting high school graduation requirements.

D. In schools having approved Junior Reserve Officer Training Corps (JROTC) training, credits may, at the option of the local school board, be substituted for the required credits in physical education.

E. Marching band, cheering, extracurricular sports, and dance team may be substituted for the physical education II credit and must:

1. include a minimum of 100 minutes of physical activity per week; and

2. encourage the benefits of a physically active lifestyle.

3. Repealed.

F. Students will be exempted from the requirements in physical education for medical reasons only; however, the minimum number of credits required for graduation will remain 24.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), 17:7(6), 17:10, R.S. 17:22(6), 17:391.1-391.10, and 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2354 (November 2003), amended LR 31:3086 (December 2005), LR 39:1448 (June 2013), LR 40:1685 (September 2014), LR 41:1268 (July 2015), LR 46:

**§2320. Health Education**

A. One-half unit of health education course offerings is required.

1. Health education will include instruction on dating violence awareness and prevention in accordance R.S. 17:81.

2. Cardiopulmonary resuscitation (CPR) will be taught.

a. Instruction must be provided for CPR and the use of an automated external defibrillator.

b. The instructional program must be nationally recognized and based on the most current national evidence-based emergency cardiovascular care guidelines.

c. Students are required to perform hands-on practice.

d. The instructor is not required to be CPR-certified.

e. Students trained in CPR are not required to obtain CPR certification.

f. The physical presence of an automated external defibrillator is not required.

B. JROTC I and II may be used to meet the health education requirement if the following requirements are met.

1. A minimum of 2000 minutes of instructional time must be devoted to health education in JROTC I and II. Students must take both JROTC I and II to meet the health education requirement.

2. All standards and GLEs for health must be covered in JROTC I and II.

3. JROTC I and II must include the instruction listed in Subsection A of this Section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:7, 17:24.4, and 17:81.

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

### Family Impact Statement

In accordance with Section 953 and 974 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule 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 earning 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 the rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended, or repealed a rule 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 one hundred 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 total direct and indirect effect on the cost to the providers to provide the same level of service; or
3. the overall effect on 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, June 9, 2020, 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 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Carnegie Credit and Credit Flexibility Health and Physical Education

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)  
There are no estimated implementation costs to the Department of Education (LDE) or local school districts due to the proposed policy revisions. The changes are necessary to provide clarity and establish best practices for valid course recognition.
- 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)  
There may be costs associated with implementing the proposed rule to the extent nonpublic schools do not currently offer health education as a stand-alone course. Current graduation requirements are for students to complete two units of health and physical education. The proposed rule decouples health education, requiring one and one-half units of physical education and a one-half unit of health education for a combined total of two units. Nonpublic schools may incur costs to the extent they are required to hire additional staff to offer a stand-alone health education course. Proposed rule further retains instruction on CPR and adds additional components to health education in order to comply with existing state law (R.S. 17:81), including instruction on dating violence and instruction on automated external defibrillators.
- 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  
2005#036

Evan Brasseaux  
Staff Director  
Legislative Fiscal Office