



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

James Garvey
1st BESE District

Kira Orange Jones
2nd BESE District

Sandy Holloway
3rd BESE District

Sue Weaver
4th BESE District

Ashley Ellis
5th BESE District

Ronnie Morris
6th BESE District

Holly Boffy
7th BESE District

Preston Castille
8th BESE District

Belinda Davis
Member-at-Large

Thomas Roque
Member-at-Large

Doris Voitler
Member-at-Large

March 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 February 20, 2021, Notice of Intent that was promulgated on pages 288-290 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 May 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

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), March 12, 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 126—Charter Schools—Charter School Renewals and Virtual Charter School Attendance

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

The proposed revisions will not have a fiscal impact to state governmental units. Local school districts that are authorizers of Type 1 and 3 charter schools may experience increased costs, although this is indeterminable.

The majority of the proposed revisions to Bulletin 126 are updates to correspond with existing policy and current practice regarding the charter school application process. However, the revisions will require local school districts that are authorizers of Type 1 and 3 charter schools to host an orientation session for interested applicants that provides a clear understanding of the application process, expectations for high-quality applications, evaluation criteria, and authorizer expectations upon approval. To the extent such districts do not already provide orientation sessions, this may result in additional workload, although these costs are 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, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions are not anticipated to result in additional costs to charter school applicants as they reflect existing policy and practice regarding the charter school application process.

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
2102#037

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs—CCAP Household Eligibility (LAC 28:CLXV.509 and 515)

In accordance with R.S. 17:6 and R.S. 49:950 et seq., the Administrative Procedure Act, the Board of Elementary and Secondary Education proposes to amend *Bulletin 139—Louisiana Child Care and Development Fund Programs*. The proposed amendments provide for revisions related to Child Care Assistance Program (CCAP) increases, payments to providers at state maximum rate, and updates to CCAP income eligibility.

**Title 28
EDUCATION**

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

Chapter 5. CCAP Household Eligibility

§509. Certification Requirements for Non-Categorically Eligible Households

A. - A.2. ...

3. have household income that does not exceed 65 percent of the state median income for a household of the same size. *Household income* is defined as:

Child Care Provider Type	Regular Care	Regular Care for Toddlers	Regular Care for Infants	Special Needs Care Incentive	Special Needs Care Incentive for Toddlers	Special Needs Care Incentive for Infants
Type III Early Learning Center	\$30.00	\$31.05	\$35.65	\$37.80	\$39.12	\$44.92
School Child Care Center	\$24.00	\$24.00	\$24.00	\$30.24	\$30.24	\$30.24
Family Child Care Provider	\$25.00	\$25.75	\$29.65	\$31.50	\$32.45	\$37.36
In-Home Provider	\$25.00	\$25.25	\$26.65	\$31.50	\$31.82	\$33.58
Military Child Care Centers	\$30.00	\$31.05	\$35.65	\$37.80	\$39.12	\$44.92

B. Categorically Eligible Households

1. Payments made to providers on behalf of categorically eligible households will be the state maximum daily rate for CCAP care as provided in Subsection A of this Section.

B.2. - C.2. ...

3. Payments made to providers on behalf of non-categorically eligible households will be a portion of the state maximum daily rate for CCAP care as provided in Subsection A.

D. - G. ...

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:6 and 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2116 (October 2015), amended LR 42:44 (January 2016), LR 42:1870 (November 2016), LR 44:801 (April 2018), LR 45:1745 (December 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.

A.3.a. - A.5.e.iii. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.28. and 45 CFR Parts 98 and 99.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 42:43 (January 2016), amended LR 42:2175 (December 2016), LR 44:261 (February 2018), effective March 1, 2018, LR 45:900 (July 2019), LR 46:1373 (October 2020), LR 47:

§515. Payments Made on Behalf of Households

A. The state maximum daily rates for CCAP care are as follows.

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), March 12, 2021, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may be hand-delivered to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date-stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 139—Louisiana Child Care and Development Fund Programs CCAP Household Eligibility

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

The proposed rule change is anticipated to increase expenditures for the Department of Education (LDE) from federal Child Care Development Funds (CCDF) as a result of proposed changes to Child Care Assistance Program (CCAP) base reimbursement rates and income eligibility. The amount of such increases is indeterminable at this time. Total expenditures are constrained by the amount of CCDF allocations in any given fiscal year. To the extent the proposed revisions cause demand for program services to exceed available federal grant allocations, the LDE will need to restrict services through waitlisting or seek alternative means of financing to bridge any funding shortfalls.

The proposed revisions increase the daily CCAP reimbursement rates from the 25th percentile to at least the 75th percentile of provider rates based on results from the updated 2020 Market Rate Survey and allow providers to be reimbursed at the state maximum daily rate, irrespective of the provider's own rates. Proposed rules would set CCAP rates for infant care at \$2.65 above the 75th percentile in order to anticipate future tuition increases. These changes are projected to increase the average monthly CCAP payments to child care providers for the base population by up to approximately 35 percent, or \$2.9 M, from \$8.35 M to \$11.26 M.

In addition, the proposed revisions increase the income eligibility for households participating in CCAP from 55 percent to 65 percent of the State Median Income (SMI). This is anticipated to result in an increased number of eligible applicants, although it is unknown how many children and families will become eligible.

The increased rates may further increase demand for the program as well as the number of child care providers participating in CCAP. As the number of applicants currently exceeds available federal grant allocations, CCDF funds will have to be reallocated to continue the provider payments at the increased rates for existing participants; the number of participants at the new rate structure will have to be reduced through waitlisting; or LDE will need to identify another revenue source to bridge any funding shortfalls. Finally, increased demand may lead to additional workload for LDE staff to assist in processing CCAP applications.

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)

Child care providers participating in CCAP will experience enhanced rate payments made on behalf of eligible households as a result of the proposed reimbursement rates. The proposed revisions will further allow providers to be reimbursed at the state maximum daily rate, irrespective of the provider's own rates. LDE anticipates the proposed revisions will increase the quality of care provided, enable more child care providers to remain open, and may incentivize some Type I or II centers to convert to a Type III center. However, it is unknown how many providers will receive net additional funds as a result of this provision. CCAP participating child care centers may realize economic benefits from the enhanced payment structure depending on the number of eligible children enrolled. Participating child care centers may realize a negative economic impact if newly eligible children wish to enroll but are waitlisted due to limited funding. The net impact is indeterminable, but some providers are likely to realize positive impacts while others realize negative.

Families with children in the CCAP program may benefit from reduced child care payments as a result of the proposed rate increases. These families may have access to a wider choice of providers. Families may become eligible for services through CCAP through the expanded eligible income range.

However, to the extent the proposed revisions cause demand for program services to exceed available federal grant allocations (and supplemental state funding), fewer families may be served through CCAP and will be waitlisted until such funding becomes available. The expansion of eligibility to families with a higher income may lead some lower-income families who might otherwise have gained access to the program to instead be placed on the waitlist.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed policy revisions may enable child care providers to hire staff with higher levels of education and experience. Increased CCAP rates may enable more child care providers to remain open, which would prevent job losses for center staff and preserve child care services for parents that are working or in school.

To the extent the proposed revisions lead to increased waitlisting of newly eligible applicants, parents unable to access child care services may experience disruptions to work or school.

Beth Scioneaux
Deputy Superintendent
2102#039

Alan M. Boxberger
Staff Director
Legislative Fiscal Office