



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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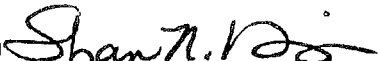
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March 12, 2021

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 291-294 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

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students (LAC 28:XXXV. Chapter 1)

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 repeal *Bulletin 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students* and re-establish Bulletin 1903 in accordance with Act 206 of the 2020 Regular Legislative Session and R.S. 17:7.

Title 28

EDUCATION

Part XXXV. Bulletin 1903—Louisiana Handbook for Students with Dyslexia

Chapter 1. General Provisions

§101. Definitions

Accommodation—any technique that alters the academic setting or environment but generally does not change the information or amount of information learned to enable a student to exhibit knowledge more accurately.

Assessment—the act or process of gathering data in order to better understand the strengths and weaknesses of student learning through observation, testing, interviews, screening, and evaluation.

Developmental Auditory Imperception—difficulties in perceiving and using what is heard such that the student may have difficulty with auditory processing, auditory discrimination, and learning sound-symbol associations.

Dysgraphia—difficulty with producing written symbols, usually resulting in slow and poor quality handwriting.

Dyslexia—an unexpected difficulty in reading for an individual who has the intelligence to be a much better reader, most commonly caused by a difficulty in phonological processing, which affects the ability of an individual to speak, read, and spell, noting that phonological processing is the appreciation of the individual sounds of spoken and written language.

Dysphasia—severe difficulty with expressive and receptive oral language.

Evaluation—the in-depth process of review, examination, and interpretation of intervention efforts, test results, interviews, observations, and other assessment information relative to predetermined criteria.

Expressive Language—the act of conveying information through writing, speaking, or gesturing.

Fluency—the clear, easy, written or spoken expression of ideas.

Grapheme—a written or printed representation of a phoneme (e.g., t, ch, z).

IDEA—Individuals with Disabilities Education Act (Public Law 105-17), also referred to as the special education statute.

Linguistics—the science of language, including phonology, morphology, syntax, and semantics.

Morphology—the study of words and how they are formed.

Phoneme—the smallest unit of sound capable of signaling semantic distinction or meaning (e.g., /sh/, /h/, /p/).

Phoneme Manipulation—dropping, adding, or moving phonemes to create new words or detached syllables.

Phoneme Segmentation—the ability to separately articulate the sounds of a spoken word in order.

Phonemic Awareness—the awareness that spoken words or syllables can be divided into a sequence of phonemes which pertains to the rule system and is a subcategory of phonological awareness.

Phonics—an approach to teaching reading and spelling that stresses symbol-sound relationships, especially in beginning reading instruction.

Phonological Awareness—an understanding that words are made up of individual speech sounds as distinct from word meaning and that those sounds can be manipulated.

Phonology—the study of the speech sounds of a language and the underlying rules of usage.

Receptive Language—the act of understanding information by listening, reading, or gesturing.

Related Disorders—disorders similar to or related to dyslexia such as developmental auditory imperceptions, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability.

Screening—a brief examination which determines the presence or absence of an important impediment to learning.

Section 504 of the Rehabilitation Act of 1973—federal law found at 29 U.S.C. Secs. 706(7), 794, 794a, 794b. "No otherwise qualified disabled individual...shall, solely by the reason of his/her handicap, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance."

Semantics—the study of meaning in language.

Syntax—the study of how sentences are formed and of the grammatical rules that govern sentence formation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

§103. Local Education Agency (LEA) Responsibilities

A. LEAs shall employ school personnel to oversee student screening, assessment, and evaluation for determination of program eligibility.

B. LEAs shall implement programs for students with characteristics of dyslexia and other related disorders in accordance with state and federal requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

§105. School Level Responsibilities

A. School leaders shall select a School Building Level Committee (SBLC) comprised of members knowledgeable of student data and assessment processes.

B. SBLC members shall include, but are not limited to:

1. a teacher of student identified for review,
2. at least two additional education professionals knowledgeable about the student data and history, as well as indicators of condition in the individual school setting.

C. School leaders shall appoint a chairperson of the committee who is tasked with data collection, maintenance of records, scheduling and planning meetings, monitoring

progress, obtaining necessary consent, and disseminating information to the committee members, educators, and parents.

D. Professional development shall be provided about state and federal regulations regarding dyslexia, the characteristics of dyslexia, and the LEA policies for implementation of the assessment and program process.

E. Educator training shall include information necessary to implement specialized instructional interventions and strategies for students with characteristics of dyslexia.

F. An intervention plan shall be established for students identified as demonstrating characteristics of dyslexia according to assessment and program determinations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

§107. School Building Level Committee (SBLC)

Responsibilities

A. Request for SBLC review from a parent or educator shall initiate the preliminary gathering of data to assist in addressing the educational progress of a student who is consistently struggling or having difficulty attaining expected academic progress, despite receiving instruction in a high quality curriculum with the implementation of additional instructional intervention strategies within the framework of a multi-tiered system of support.

B. Data gathering and review may include, but is not limited to, the following information to establish a profile of the whole child:

1. student and family history, including relevant developmental, health, or home information;
2. speech and language information, including assessment of phonological awareness;
3. academic, cognitive, and behavior records;
4. teacher observations of aptitude, behavior, and concerns;
5. criterion referenced, norm referenced, and/or standardized test results;
6. interventions implemented;
7. formal and/or informal assessment and progress monitoring data;
8. samples of student work;
9. observations of student effort at home and/or school;
10. student academic and non-academic strengths and interests;
11. most recent vision and hearing screening results;

C. The SBLC will determine if relevant data indicates the need for further action that may include:

1. additional assessment;
2. continuation of specialized instructional interventions and progress monitoring;
3. development of a 504 Plan to provide classroom accommodations;
4. referral to pupil appraisal for evaluation to determine eligibility for special services as provided by IDEA;
5. return to regular classroom without further strategies or interventions.

D. The SBLC may repeat the review process should characteristics of dyslexia become evident or emerge at a later date.

E. Private evaluation results and documentation submitted by a parent or guardian must be reviewed by the SBLC.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

§109. Screening Requirements

A. In accordance with Bulletin 741: *Louisiana Handbook for School Administrators*, all students enrolled in kindergarten through third grade shall be administered an early literacy screener within the first 30 days of the school year.

B. Students in kindergarten and fall semester of first grade shall be screened with an early literacy instrument to measure:

1. phonemic awareness,
2. letter naming fluency, and
3. letter sound recognition.

C. Students in spring semester of first grade through third grade shall be screened with an early literacy instrument to measure:

1. decoding skills for blending and reading real and nonsense words accurately; and
2. oral reading fluency rate and accuracy in connected text.

D. A score that indicates deficits shall result in additional screening to include:

1. kindergarten and fall semester of first grade students:
 - a. phonological awareness such as rhyming and syllable manipulation; and/or
 - b. rapid automatic naming skills such as colors, objects, and numbers.
2. spring semester of first grade through third grade students
 - a. phonological/phonemic awareness such as syllable manipulation, phoneme segmentation, or phoneme manipulation;
 - b. rapid automatic naming skills such as colors, objects, letters, and/or numbers;
 - c. encoding skills using spontaneous spelling;
 - d. oral and written language skills.

E. A student demonstrating deficits after additional screening is considered to have characteristics of dyslexia and shall be provided appropriate structured language and literacy interventions.

F. Screening is not limited to students in kindergarten through third grade and may be administered at any grade level if a student exhibits impediments to a successful school experience.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

§111. Multisensory Structured Language and Literacy Program Criteria

A. A multisensory structured language and literacy program shall consist of specific content components to include:

1. phonological awareness;
2. phoneme-grapheme association;
3. phonics;

4. syllable instruction;
5. linguistics;
6. language-based instruction that integrates all aspects of language and comprehension
 - a. receptive language skills of listening and reading,
 - b. oral expression in word selection and sequencing,
 - c. written expression in spelling, mechanics, and coherence, and
 - d. handwriting;

7. Meaning-based instruction provided in words and sentences to extract meaning in addition to teaching isolated letter-sound correspondence.

B. Instructional methodology for a multisensory structured language and literacy program must be:

1. Explicit. Literacy instruction requires direct teaching of concepts with continuous student-teacher interaction and does not assume students deduce concepts.

2. Systematic. Material is organized and taught in a way that is logical and fits the nature of language which refers to the way sounds combine to form words and words combine to form sentences to represent knowledge. The ways are determined by a system of rules.

3. Sequential. The learner moves step by step, in order, from simple, well-learned material to that which is more complex, as the student masters the necessary body of language skills.

4. Cumulative. Each step is incremental and based on the skills already learned.

5. Individualized. Teaching is planned to meet the differing needs of individual learners, but may be of similar scope and sequencing.

6. Diagnostic. Teachers must be adept at individualizing instruction (even within groups) based on careful and continuous assessment, both informal (e.g., observation) and formal (e.g., with standardized measures). Content must be mastered to the degree of automaticity needed to free attention and cognitive resources for comprehension and oral/written expression.

7. Automaticity of Performance. Fluent processing of information that requires little effort or attention as in sight word recognition. Adequate practice with decodable text is to be provided for mastery of skills and application of concepts.

8. Simultaneous Multisensory. Instructional approaches use a simultaneous combination of internal visual, auditory, kinesthetic, and tactile learning pathways to achieve proficiency in language processing.

9. Synthetic to Analytic Phonics. A process of teaching letter sounds to create words.

a. Synthetic phonics first teaches letter sounds and then combines or blends the sounds to create words.

b. Analytic phonics uses prior knowledge of letters and the corresponding sounds to decode and form new words.

C. Program Implementation

1. Multisensory structured language and literacy programs are to be routinely provided within the regular school day within the framework of multi-tiered systems of support in:

- a. regular classroom setting;
- b. separate classroom setting;
- c. individual or small group instruction;

d. any additional accommodations that are developed by the SBLC; or

e. any combination thereof.

D. Review of Student Progress

1. Progress monitoring data shall be maintained on students receiving instruction in a multisensory structured language and literacy program.

2. The SBLC shall conduct a periodic review of the data to determine the effectiveness of the program for the student.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:

Family Impact Statement

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

1. Will the proposed Rule affect the stability of the family? No.

2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.

3. Will the proposed Rule affect the functioning of the family? No.

4. Will the proposed Rule affect family earnings and family budget? No.

5. Will the proposed Rule affect the behavior and personal responsibility of children? No.

6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

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

1. Will the proposed Rule affect the household income, assets, and financial authority? No.

2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.

3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in 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 1903—Regulations and Guidelines for Implementation of the Louisiana Law for the Education of Dyslexic Students

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

The proposed revisions may result in an increase in state Minimum Foundation Program (MFP) costs associated with the special education weight, to the extent the revised screening processes lead to an increase in students with dyslexia who are served through an individualized education program (IEP).

The proposed revision will have an indeterminable impact on costs to local school districts and other public schools. Districts could experience significant costs to the extent the new screening processes result in an increase in the number of students identified with dyslexia; however, this is indeterminable as current practices vary from district to district.

The proposed revisions provide for the following: renames the bulletin in a manner consistent with other bulletins; aligns the definition of dyslexia with Act 206 of the 2020 Regular Legislative Session; updates the characteristics of dyslexia to reflect current research and grade level appropriateness; amends dyslexia screening requirements to existing law and best practices; and formats and organizes the policy in a

sequential format with a clear focus on identifying and providing support to students at risk for dyslexia. Currently the Department of Education (LDE) requires the use of four tests (DIBELS Next, DIBELS 8th, STEP, or STEEP) to meet early literacy screening required by law. Districts use the test results in conjunction with other considerations as indicators for dyslexia. Under the proposed revisions, local school districts will be able to continue to screen students through the existing early literacy instruments.

There may be costs associated with the implementation of revised screening requirements for dyslexia, although such costs are indeterminable. Potential costs to districts may vary to the extent their current practices align with the proposed revisions. The proposed revisions eliminate the current process for the identification of dyslexia, in which a student must meet five out of six characteristics. In its place, the revisions would establish a "gated screening process," which requires students whose initial scores indicate deficits to be subject to additional screening; deficits in the additional screening will be considered a determination that the student has characteristics of dyslexia. The new screening requirements will require districts to review their existing processes, which may involve costs associated with staff training or the purchase of materials. Districts may incur additional costs to provide specialized educational services and interventions in the event that the new screening requirements lead to an increase in the number of students identified with dyslexia. As an example, under the current screening process, a student identified with four out of six characteristics would not be eligible for services provided through the multisensory structured language and literacy program, however such a student may be deemed eligible through the new screening process. Additionally, districts may experience savings to the extent the new screening requirements lead to more accurate assessments resulting in fewer false positives.

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

To the extent the revised screening processes lead to an increase in students with dyslexia who are served through an individualized education program (IEP), local school districts and other public schools may experience an increase in revenues derived from state Minimum Foundation Program (MFP) funds (associated with the special education weight) and federal IDEA funding, although this is indeterminable. Generally, students with dyslexia are served through an individualized accommodation plan (IAP) under Section 504 and not eligible for additional state or federal funding. However, students whose dyslexia impacts their academic achievement such that they require specially designed instruction should receive more targeted instruction through IDEA and must have an IEP.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revision will not result in costs or benefits to persons, small businesses, or non-governmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Beth Scioneaux
Deputy Superintendent
2102#038

Alan M. Boxberger
Staff Director
Legislative Fiscal Office