



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

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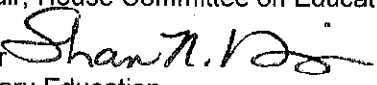
Thomas Roque
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March 14, 2022

MEMORANDUM

TO: Senator Patrick Page Cortez, Senate President
Representative Clay Schexnayder, Speaker of the House
Senator Cleo Fields, Chair, Senate Committee on Education
Representative Lance Harris, 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, 2022, Notice of Intent that was promulgated on pages 317-319 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 May 20, 2022, issue of the *Louisiana Register*.

The following document is attached:

1. A copy of the Notice of Intent.

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

SND:slr

Attachment (1)

- c: Shalyric Self, Secretary, Senate Committee on Education
Cheryl Serrett, Analyst, Senate Committee on Education
Elizabeth Borne, Legislative Analyst, House Committee on Education
Lisa Lovello, Legislative Analyst, House Committee on Education
Ashley Townsend, Policy Director, Louisiana Department of Education
Shan N. Davis, Executive Director, BESE
Kevin Calbert, Communications Manager, BESE

Shan N. Davis
Executive Director

Cade Brumley
State Superintendent

The proposed revisions will not have an effect on costs or savings of state agencies. There may be an increase in local expenditures by public school districts associated with training as a result of the implementation of the Connectors (standards); however, this cost is indeterminable.

The proposed revisions provide alternative measurements of English language proficiency for English Learners with significant cognitive disabilities. The Alternate English Learner Connectors will be measured by the forthcoming alternate English Learner assessment, English Language Proficiency Test Connect.

The Department of Education (LDE) plans to develop an assessment associated with the Alternate English Learner Connectors through an existing contract, English Language Proficiency Assessment for the 21st Century. This initial development will not result in additional costs and the proposed revisions do not require the purchase of such assessments at this time.

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

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

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

The proposed revisions will benefit English Learners with significant cognitive disabilities by providing Connectors (standards) to be used in an alternate assessment of English Language Proficiency. This assessment will benefit school- and district-level teams as they support these students in learning English language knowledge and skills.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Beth Scioneaux
Deputy Superintendent
202#033

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Early Childhood Care and Development Fund Programs (LAC28:CLXV.509 and 515)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC28:CLXV. Bulletin 139—*Louisiana Early Childhood Care and Development Fund Programs*. The revisions increase the daily Child Care Assistance Program (CCAP) reimbursement rates and increase the income eligibility for CCAP to 85 percent of the State Median Income.

**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. To be certified as a CCAP household, households that are not categorically eligible for participation in CCAP must meet the following requirements:

1. include at least one child who is eligible for CCAP as provided in §503.A;
2. meet all criteria provided in §507.A;
3. have household income that does not exceed 85 percent of the state median income for a household of the same size. *Household income* is defined as:

3.a. - 6. ...

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 47:573 (May 2021), LR 48:

§515. Payments Made on Behalf of Households

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

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	\$31.50	\$42.00	\$68.00	\$39.69	\$52.92	\$85.68
School Child Care Center	\$24.00	\$24.00	\$24.00	\$30.24	\$30.24	\$30.24
Family Child Care Provider	\$29.00	\$42.00	\$61.00	\$36.54	\$52.92	\$76.86
In-Home Provider	\$25.00	\$25.25	\$26.65	\$31.50	\$31.82	\$33.58
Military Child Care Centers	\$31.50	\$42.00	\$68.00	\$39.69	\$52.92	\$85.68

B. - 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 47:573 (May 2021), LR 48:

Family Impact Statement

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

1. Will the proposed Rule affect the stability of the family? Yes.
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? Yes.
5. Will the proposed Rule affect the behavior and personal responsibility of children? Yes.

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 139—Louisiana Early
Childhood Care and Development Fund Programs**

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? Yes.

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? Yes.

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? Yes.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;

2. the cost to the providers to provide the same level of service; or

3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, March 12, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

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

There will be a significant increase in costs to the Louisiana Department of Education (LDE) associated with the proposed increases to the Child Care Assistance Program (CCAP) reimbursement rates and income eligibility. The amount of the increase will depend upon the number of children enrolled in the program and is indeterminable. CCAP is funded with a combination of state general fund (SGF) and federal funding through the Child Care and Development Fund (CCDF). Total expenditures are limited by the amount of state appropriations and federal grant allocations in any given year. To the extent the proposed revisions cause demand for program services to exceed available funding, the LDE will need to restrict services through wait listing or seek alternative means of financing to bridge any funding shortfalls.

The proposed revisions increase the yearly CCAP reimbursement rates per child from approximately \$8,500 to approximately \$12,500. In addition, the proposed revisions increase the income eligibility for households participating in CCAP from 65 percent to 85 percent of the State Median Income (SMI). This would increase the number of eligible applicants, and modeling suggests that approximately 3,800 additional children will participate in the program. Increased demand may lead to additional workload for LDE staff to assist in processing CCAP applications.

Although the projected cost of the proposed revisions is indeterminable, a narrow cost analysis presented to the Early Childhood Care and Education (ECCE) Advisory Council estimated the average cost per month for February through April 2022 would increase from \$16.4 M to \$19.9 M. On an annual basis, this would total approximately \$42 M per year, although the use of a waitlist will reduce this amount without a corresponding growth in appropriation. In addition, the narrow cost analysis estimated that under the proposed CCAP rates, wait listing will begin in April 2022.

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

The proposed revisions will not have an effect on revenue collections of state or local governmental units.

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

The proposed revisions will benefit child care providers who receive increased CCAP payments. In addition, families will benefit from expanded access to child care. However, to the extent that the proposed revisions reduce the number of children served by the program, some child care providers may experience reduced income if qualified families are unable to enroll their children in the program. Families may also face negative economic impacts in comparison to participating families if they are waitlisted due to limited CCAP funding.

The proposed revisions increase the yearly CCAP payment rates per child from approximately \$8,500 to approximately \$12,500. Child care providers would receive an additional \$4,000 per year on average for each CCAP-enrolled child currently in their care. Child care providers will receive an average \$12,500 per year for each new child that enrolls due to the expanded eligibility.

CCAP requires enrolled families to pay a copayment determined through a sliding fee scale based on household size and income. Currently, copayments can be waived and paid

instead with federal COVID-19 relief funding. When this funding is no longer available, the overall cost of copayments to households will depend on the size and income of those households and is indeterminable.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions may impact the income of CCAP participant child care center employees; however, these amounts are indeterminable. The revisions may also incentivize child care providers to begin participating in CCAP, increasing competition amongst CCAP providers.

Beth Scioneaux
Deputy Superintendent
2202#034

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network
(LAC 28:CLXVII.303, 313, 314, and 511)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:CLXVII Bulletin 140 – *Louisiana Early Childhood Care and Education Network*. The proposed revisions allow CCAP-certified family child care providers to apply for academic approval and participate in the unified quality rating system and initiatives.

**Title 28
EDUCATION**

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

Chapter 3. Early Childhood Care and Education Network

§303. BESE Duties and Responsibilities

A. - A.4. ...

B. To assist the Louisiana Legislature in evaluating the effectiveness of the early childhood care and education network and in determining the most efficient and effective allocation of funding and services to maximize opportunities for children aged birth through five to achieve kindergarten readiness, BESE shall:

1. coordinate and report data relative to the early childhood care and education network to assist legislators in evaluating the effectiveness of the network and in determining the most efficient allocation of funding and services to maximize opportunities for children aged birth through five to achieve kindergarten readiness; and

2. annually submit to the Louisiana Legislature a written report that shall include, at a minimum, the following information:

a. the number of publicly-funded children participating in the network and demographic information pertaining to age, race, and socioeconomic status; and

b. the areas of greatest need according to geographic location and student population for the purpose of prioritizing funding and services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2582 (December 2015), LR 48:

§313. Academic Approval for Type III Early Learning Centers

A. - L.1.e ...

f. failure to participate in the early childhood site improvement planning process, as required by §512 of this Part.

L.2. M.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:407.36(C), and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2584 (December 2015), amended LR 42:1871 (November 2016), LR 43:2129 (November 2017), LR 44:1439 (August 2018), LR 45:1451 (October 2019), LR 48:

§314. Academic Approval for Family Child Care Homes

A. Registered and CCAP-certified family child care homes may apply for academic approval from the LDE.

B. Family child care homes meeting the performance and academic standards of the early childhood care and education network regarding kindergarten readiness as provided in this bulletin shall receive academic approval from the LDE. Academic approval includes verification by the LDE that the family child care home meets the required performance and academic standards.

C. Initial Academic Approval for an Applicant for a Family Child Care Home

1. In order to obtain initial academic approval as a family child care home, a family child care home applying for a new academic approval must:

a. submit a signed copy of the current program partner assurances for family child care homes to the LDE, thereby agreeing to comply with the provisions of this bulletin, which include:

i. membership in the corresponding community network, as provided in Chapter 3;

ii. participation in the early childhood care and education accountability system, as provided in Chapter 5; and

iii. participation in the coordinated enrollment process, as provided in Chapter 7.

2. An applicant for a new family child care home academic approval who has held a family child care home academic approval and received a corrective action plan as provided in §313 at any time during the current or preceding fiscal year shall not be allowed to apply for academic approval for the fiscal year in which the family child care home received a corrective action plan and the following fiscal year.

D. Renewal of Academic Approval for Family Child Care Homes

1. Academic approval will be renewed annually for a family child care home that:

a. has current academic approval;

b. is in compliance with the provisions of this Part;

c. has not received two unsatisfactory performance ratings within any consecutive three school years; and

d. has submitted a signed copy of the current annual program partner assurances for family child care homes to the LDE, thereby certifying that: