



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

May 11, 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 *Shan N. Davis*
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 April 20, 2022, Notice of Intent that was promulgated on pages 1142-1145 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 July 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) 342-5849 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

James Garvey
1st BESE District

Kira Orange Jones
2nd BESE District

Sandy Holloway
3rd BESE District

Michael Melerine
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 Voitier
Member-at-Large

Shan N. Davis
Executive Director

Cade Brumley
State Superintendent

submitting a completed, signed and dated SBLGP banker loan status monthly report within five business days after the end of the month/reporting period, as stated in the loan participation agreement.

C - C.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2312.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Economic Development Corporation, LR 15:448 (June 1989), amended LR 23:42 (January 1997), LR 26:2257 (October 2000), amended by the Department of Economic Development, Office of the Secretary, Office of Business Development and Louisiana Economic Development Corporation, LR 38:996 (April 2012), LR 48:

Family Impact Statement

The proposed Rule is not anticipated to have an impact on family formation, stability, and autonomy as described in R.S. 49:972.

Poverty Statement

The proposed Rule is not anticipated to have an impact on poverty as described in R.S. 49:973.

Provider Impact Statement

The proposed Rule is not anticipated to have an impact on providers of services as described in HCR 170 of the 2014 Regular Legislative Session.

Small Business Analysis

The purpose of this program is to strengthen state programs that support private financing to small businesses with less than 500 employees. Voluntary participation in the program could cause a direct economic impact on some very small businesses that have no more than 10 employees, if meeting certain criteria. However, the benefit from additional funding received, at a nominal cost of some additional planning and paperwork associated with the application process and reporting requirements should provide a positive impact to any small businesses that choose to apply to the program.

Public Comments

Interested persons should submit written comments on the proposed Rules to Kelly Raney through the close of business on Tuesday, May 24, 2022 at Department of Economic Development, 617 North Third Street, 11th Floor, Baton Rouge, LA 70802 or via email to Kelly.Raney@la.gov.

Public Hearing

A meeting for the purpose of receiving the presentation of oral comments will be held at 1:30 p.m. on Wednesday, May 25, 2022 in the Griffon Conference Room at the LaSalle Building, 617 North Third Street, Baton Rouge, LA 70802.

Anne G. Villa
Undersecretary

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Small Business Loan Guaranty Program (SBLGP)

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

There will be no incremental costs or savings to state or local governmental units due to the implementation of these

rules, since they will be managed by existing staff under the current budget. The proposed rule amends program guidelines for the existing Small Business Loan Guaranty Program ("SBLGP"), including the primary change of increasing the guaranty percentage from 75% to 80% and lowering the value of collateral required for SEB's to 80%. This program will likely be used in conjunction with the new SSBCI loan guaranty program

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

There will be no reductions in revenues to the State General Fund (Direct) to the extent that entities take advantage of this program. Based on LED historical data, LEDC has awarded 1 loan for \$1.2M since 2011. The proposed rule changes will not affect local governmental units.

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

The program will require adherence to the application procedures which will involve submission of paperwork by the applicants. However, recipients will benefit by obtaining access to capital made available to them through the program.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The long term effects of this state program, in conjunction with the SSBCI program could be significant. The program should result in a significant amount of additional capital being deployed in Louisiana over the program's existence, due to the potential to leverage Federal SSBCI funds to attract private capital matches. The impact of this additional capital could be extensive, particularly for SEB's.

Anne G. Villa
Undersecretary
2204#065

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 118—Statewide Assessment Standards and Practices (LAC 28:XI.Chapter 53)

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 (BESE) proposes to amend LAC 28:XI:Subpart 3 in Bulletin 118—*Statewide Assessment Standards and Practices*. The aforementioned revisions are in response to a request by the Board at the October 2019 meeting directing BESE staff to work with the Louisiana Department of Education (LDE) staff to recommend policy revisions to Bulletins allowing for certification notations and/or possible license censure options. Bulletin 118 revisions align test security policy and further clarifies terminology related to assessment proctors, scoring, irregularities, cheating and security violations that may clarify terminology and impact educator credentials. These proposed revisions do not amend any test security process or procedure. The purpose of these changes is to define terminology more specifically.

Title 28
EDUCATION

Part XI. Accountability/Testing

Subpart 3. Bulletin 118—Statewide Assessment
Standards and Practices

Chapter 53. Test Security

§5303. Definitions

[Formerly LAC 28:CXL303]

Access—physically handling secure test materials, including reading, reviewing, or analyzing test items or student responses, either before, during, or after testing, except where providing approved accommodations.

Cheating—a test security violation committed by an educator in order to alter student or school assessment results by inappropriately accessing secure test materials in violation of Bulletin 118, LAX 28:XI. Chapter 53.

Erasure—erasing answers on paper and pencil test, as well as changing answers online.

Secure Materials—test materials that contain test items or student responses and to which access is restricted. Secure test materials include:

1. student test booklets;
2. student answer documents;
3. student log-in information; and
4. any other materials that contain test items or student responses.

Oath of Security—attestation that a test administrator has received required testing procedure training and vows to comply with all policies set forth.

Test Security Violation—actions(s) committed by an educator during the handling or administration of secure materials that compromises the validity of assessment results and may result in voiding test scores.

Testing Irregularity—an error in test handling or administration that compromises reliability regarding the security of the test or the accuracy of the test data.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81.6 et seq., R.S. 416 et seq., and R.S. 441 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 34:65 (January 2008), LR 40:2510 (December 2014), LR 48:

§5305. Test Security Policy

[Formerly LAC 28:CXL305]

A. The state Board of Elementary and Secondary Education holds the test security policy to be of utmost importance and deems any violation of test security to be serious.

A.1. - A.3.i. ...

j. fail to report any testing irregularities to the district test coordinator, who must report such incidents to the LDE;

k. participate in, direct, aid, counsel, assist in, encourage, or fail to report any of the acts prohibited in the section.

A.4. - A.4.k. ...

5. Procedures for investigating a test security violation or testing irregularity must, at a minimum, include the following.

A.5.a. - A.17. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:391.7(C)-(G).

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1528 (July 2005), amended LR 32:233 (February 2006), LR 33:255 (February 2007), LR 33:424 (March 2007), LR 33:2033 (October 2007), LR 34:65 (January 2008), LR 34:431 (March 2008), LR 34:1351 (July 2008), LR 35:217 (February 2009), LR 37:858 (March 2011), repromulgated LR 37:1123 (April 2011), amended LR 38:747 (March 2012), LR 39:1018 (April 2013), LR 40:2510 (December 2014), LR 43:634 (April 2017), LR 44:463 (March 2018), LR 44:1857 (October 2018), LR 47:566 (May 2021), LR 48:

§5309. Erasure Analysis and Online Answer Changes
[Formerly LAC 28:CXL309]

A. - A.5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1530 (July 2005), amended LR 32:234 (February 2006), LR 33:257 (February 2007), LR 35:217 (February 2009), LR 35:443 (March 2009), LR 40:2512 (December 2014), LR 43:634 (April 2017), LR 44:463 (March 2018), LR 44:1857 (October 2018), LR 48:

§5311. Violations of Test Security

[Formerly LAC 28:CXL311]

A. The test security policy approved by the SBESE requires that the LDE establish procedures to deal with breaches of test security. District authorities provide the LDE information about voiding student tests because of student violations observed during test administration or violations by school personnel or others that are reported. In addition, the scoring process produces information regarding written responses that have common elements, which indicate a student brought unauthorized materials to testing and used them to assist in writing; that indicate that teacher interference might have been a significant factor, and in which troubling content was evident. Procedures for dealing with these issues follow.

A.1. - A.1.d. ...

2. Violations by School Personnel or Other Persons. All suspected instances of cheating should be reported directly to the school's district test coordinator (DTC) for further investigation, and a report of the incident must be sent by the DTC to LDE. If it is deemed necessary to void tests, the DTC must submit a completed void form to the LDE. The original void verification form along with a written report of the investigation carried out must be mailed to the LDE. Educators determined by the LEA and/or LDE investigation to have participated in cheating may receive certification sanctions as defined in Bulletin 746, Chapter 19.

A.3. - A.3.d.i. ...

4. Disturbing Content. If student responses with disturbing content are discovered during the scoring process, the scoring contractor will notify the appropriate staff member at the LDE, Division of Assessments and Accountability.

a. Professional assessment personnel review the responses. If it is determined that disturbing content causes a compelling need to break confidentiality, LDE will, within five business days, contact the district superintendent to summarize findings and inform the superintendent that materials are being mailed regarding the alert.

b. Issues regarding troubling content are for the district's information to assist the student and do not require further communication with LDE, nor is the notice a violation of test security.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 31:1531 (July 2005), amended LR 33:257 (February 2007), LR 35:217 (February 2009), LR 43:635 (April 2017), LR 44:464 (March 2018), LR 44:1858 (October 2018), LR 48:

§5312. Testing Irregularities

[Formerly LAC 28:CXL312]

A. - F.3. ...

G. Student actions including but not limited to inappropriate access, test material damage or destruction, or failure to follow testing protocol, may result in a testing irregularity and be reported as outlined in this section.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:24 et seq.

HISTORICAL NOTE: Promulgated by the Department of Education, Board of Elementary and Secondary Education, LR 32:390 (March 2006), amended LR 33:257 (February 2007), LR 34:66 (January 2008), LR 34:1351 (July 2008), LR 35:218 (February 2009), LR 36:967 (May 2010), LR 38:33 (January 2012), amended LR 38:748 (March 2012), LR 38:2358 (September 2012), LR 40:2512 (December 2014), LR 44:464 (March 2018), 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? 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? No.

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 noon, May 10, 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

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 118—Statewide Assessment Standards and Practices

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

The proposed revisions will not impact costs or savings to state or local governmental units.

These revisions align test security policy related to assessment proctors, scoring, irregularities, cheating, and security violations with proposed revisions to Bulletin 746.

These proposed revisions do not amend any test security process or procedure. The purpose of these changes is to define terminology more specifically.

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, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)

The proposed revisions will not result in costs and/or benefits to directly affected persons, small businesses, or nongovernmental groups.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Beth Scioneaux
Deputy Superintendent
2204#051

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Literary Skills and Assessment (LAC 28: CXV.509 and 2307)

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: CXV in Bulletin 741—*Louisiana Handbook for School Administrators*. The aforementioned revisions are in response to legislative Acts of the 2021 Regular Legislative Session related to literacy and would revise the annual literacy assessment and require successful completion of approved foundational literacy skills courses for educators. Further, the revisions require scientific, research-based interventions during school hours for students measured at below grade level on the annual literacy assessment as well as development of a foundational literacy skills plan for students in kindergarten through third grade.

**Title 28
EDUCATION**

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 5. Personnel

§509. Completion of Approved Foundational Literacy Skills Course

A. The LDE shall develop a list of approved professional development courses designed for educators that provide foundational literacy skills instruction based on the science of reading and include information on instructing students regarding phonemic awareness, phonics, fluency, vocabulary, and comprehension.

1. Not later than the beginning of the 2023-2024 school year, each teacher and administrator must successfully complete at least one approved professional development course and provide documentation of successful completion of the course to the employing school. A teacher or administrator who provides documentation of

completion of an approved professional development program within the five years prior to 2023 shall be considered in compliance with the provisions of this Paragraph.

a. For the purposes of this Section, “teacher” means kindergarten through third grade teacher who teaches reading, math, science, or social studies.

b. For the purposes of this Section, “administrator” means a principal or assistant principal of a school that includes kindergarten through third grade.

2. Any teacher or administrator hired after August 1, 2023, must provide documentation to the employing school of successful completion of an approved professional development course within two years of the date of employment.

3. Beginning May 1, 2022, and annually thereafter, each LEA shall report to the department the number and percentage of teachers and administrators who have successfully completed an approved professional development course. Reported data shall be included in LDE school progress profiles.

4. Waivers to use professional development courses that have not been included in the department list of approved professional development courses must be submitted in writing to the LDE and are subject to approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S.17:24.10; and R.S. 17:24.12.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:

**Chapter 23. Curriculum and Instruction
Subchapter A. Standards and Curricula
§2307. Literacy Assessment**

A. Each LEA shall require that every child enrolled in kindergarten-third grade be given the BESE-approved literacy assessment within the first 30 days of the school year. The results of this assessment shall be used to plan instruction and provide appropriate and timely intervention. The results of the assessment will also provide information required by R.S. 17:24.9, student reading skills; requirements; reports.

1. Each student administered a literacy assessment will be identified as reading below, at, or above grade level. Students scoring above grade level may be considered for evaluation into a gifted program.

2. For students with significant hearing or visual impairment, nonverbal students, or students with significant cognitive impairment, the LEA will provide an alternate assessment recommended by the LDE.

3. Each LEA will report to the LDE assessment results by child within the timeframes and according to the guidance established by the LDE.

4. For grades 1-3, the school should use the prior year’s latest assessment level to begin appropriate intervention until the new assessment level is determined.

5. Any student scoring below grade level in reading based upon assessment and/or progress monitoring must be provided scientific, research-based reading intervention upon identification. The reading intervention shall do all of the following:

a. provide explicit, direct instruction that is systematic, sequential, and cumulative in language development, phonological awareness, phonics, fluency, vocabulary, and comprehension, as applicable;