



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 1145-1147 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:sir

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

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 non-governmental 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—Literacy 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;

b. provide targeted small group reading interventions based on student need in phonological awareness, phonics including decoding and encoding, vocabulary, or comprehension; and
c. be implemented during regular school hours.

B. Each LEA shall administer the literacy assessment provided by the LDE for each grade level to meet kindergarten-third grade literacy assessment requirements.

C. Beginning June 1, 2023, and triennially thereafter, each school shall use data from the literacy assessment in order to develop and submit to LDE the school foundational literacy plan for students in kindergarten through third grade pursuant to R.S. 17:24.9.

1. Each foundational literacy skills plan shall include:

a. the amount of time to be devoted daily to foundational literacy skills and a description of how the instructional time will be utilized;

b. a list of English language arts textbooks and instructional materials adopted by the school;

c. a description of the interventions and supports available to students identified as having literacy skills below grade level; and

d. a description of the professional development in foundational literacy skills instruction provided to teachers who teach kindergarten through third grade.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S.17:24.4; R.S. 17:24.9; and R.S.17:24.10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1289 (June 2005), amended LR 38:1224 (May 2012), LR 39:2214 (August 2013), LR 42:1878 (November 2016), LR 45:36 (January 2019), 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? 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 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 741—Louisiana Handbook for School Administrators

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

There will be increased costs for the Department of Education (LDE) to create the literacy assessment required by the proposed revisions and to provide professional development courses to K-3 teachers and administrators. The LDE plans to utilize \$4.5 M in federal funding from the Elementary and Secondary School Emergency Relief (ESSER) grant for the

creation of the literacy assessment pursuant to Act 438 of 2021, and \$5 M ESSER funds to develop the required professional development course pursuant to Act 108 of 2021.

Local school systems may experience increased costs related to personnel and materials if they do not already have reading interventions in place. This cost is indeterminable and will vary among districts. However, to assist districts in implementing the measure, LDE is developing the diagnostic intervention tool described above, and has allocated \$7.8 M in ESSER funding to provide current school personnel with a foundational literacy professional development course from a list of approved vendors.

Local personnel may experience a temporary increase in workload to develop the required literacy plan, which will be revised every three years. Existing LDE staff will review the literacy plans. Each teacher who teaches kindergarten through third grade reading, math, science, or social studies and each administrator of a school that includes kindergarten through third grade will complete the foundational literacy training. Any teacher or administrator hired after August 1, 2023, must provide documentation to the employing school of successful course completion within two years of the date of employment.

The proposed revisions update the annual literacy assessment and require successful completion of approved foundational literacy skills courses for educators. The policy requires that children in kindergarten through third grade are given the BESE-approved literacy assessment within the first 30 days of school and that results are reported to LDE. In addition, the changes mandate scientific, research-based interventions during school hours for students measured at below grade level on the annual literacy assessment. Data from the literacy assessment will be used to develop the required foundational literacy skills plan in which students in kindergarten through third grade are enrolled beginning June 1, 2023, in accordance with R.S. 17:24.9. Teachers and administrators of students in these grade levels shall complete one approved professional development course by the beginning of the 2023-2024 school year. Any teachers hired after August 1, 2023, must complete such a course within two years of employment, and systems shall report the successful completion to LDE annually beginning May 1, 2022, pursuant to R.S. 17:24.12.

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)

There will be increased income to vendors of foundational literacy professional development courses. The LDE has allocated \$7.8 M in ESSER funding to local school systems for use in purchasing access to professional development courses from a list of approved vendors: (1) The AIM Institute for Learning & Research; (2) Associated Professional Educators of Louisiana; (3) Keys to Literacy; and (4) Voyager Sopris Learning.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Beth Scioneaux
Deputy Superintendent
2204#52

Alan M. Boxberger
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 745—Louisiana Teaching Authorizations of School Personnel (LAC 28:CLXXII.Chapter 1)

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 repeal LAC 28: CLXXII *Bulletin 745—Louisiana Teaching Authorizations of School Personnel*. The proposed repeal removes repetitive language and re-establishes the Teaching Authorization requirement as a section in LAC 28: CXXXI. *Bulletin 746—Louisiana Standards for State Certification of School Personnel*.

Title 28 EDUCATION

Part CLXXII. Bulletin 745—Louisiana Teaching Authorizations of School Personnel

§101. Introduction

Repealed.

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 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:2134 (December 2018), repromulgated LR 45:39 (January 2019), repealed LR 48:

§103. Teaching Authorizations

Repealed.

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 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:2134 (December 2018), repromulgated LR 45:39 (January 2019), amended LR 45:900 (July 2019), repealed LR 48:

§104. Issuance of a Denied Teaching Authorization

Repealed.

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 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 45:901 (July 2019), repealed LR 48:

§105. Suspension and Revocation of Teaching Authorizations for Criminal Offenses

Repealed.

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 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:2135 (December 2018), repromulgated LR 45:39 (January 2019), Repealed LR 48:

§107. Suspension and Revocation of Teaching Authorizations Due to Participation in Cheating

Repealed.

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 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:2135 (December 2018), repromulgated LR 45:40 (January 2019), Repealed LR 48: