



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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October 12, 2026

MEMORANDUM

TO: Senator Cameron Henry, Senate President
Representative Phillip DeVillier, Speaker of the House
Senator Rick Edmonds, Chair, Senate Committee on Education
Representative Laurie Schlegel, Chair, House Committee on Education

FROM: Tavares A. Walker, 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 September 20, 2026, Notice of Intent that was promulgated on pages 1597-1600 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 December 20, 2026, issue of the *Louisiana Register*.

The following document is attached:

1. A copy of the Notice of Intent.

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

TAW:med

Attachment (1)

c: Caroline Tyler, Secretary, Senate Committee on Education
Elizabeth Borne, Legislative Analyst, House Committee on Education
Lisa Lovello, Legislative Analyst, House Committee on Education
Ashley Townsend, Assistant Superintendent, Louisiana Department of Education
Max Dupuy, Records Management Administrator, BESE

Tavares A. Walker
Executive Director

Dr. Cade Brumley
State Superintendent

Elementary and Secondary Education (BESE) policy to 32 Acts and one (1) Concurrent Resolution of the 2026 Regular Session. Each provision restates a requirement the legislature has already imposed on schools and school systems, and the Louisiana Department of Education (LDOE) will administer the revisions with existing staff and existing appropriations.

Note: Act 744 only requires the provision of paid parental leave upon funding being made available in the Paid Parental Leave for Educators Fund. To the extent LEAs elect to provide paid parental leave prior to an appropriation to the fund, they may incur an increase in expenditures.

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

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.

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

Students, parents, teachers and other school employees, and participating business and nonprofit entities may realize economic benefits to the extent the programs established or expanded by the underlying Acts are funded and implemented.

Teachers and other eligible school employees may benefit from paid parental leave, while business partners that choose to operate a career practicum may realize economic benefits associated with participation under a cooperative endeavor agreement. A nonprofit corporation operating a vocational and technical education charter school may also receive funding associated with operating the school. The magnitude of any economic benefit is indeterminable and will depend on the level of funding and participation.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Career practicums and the fine arts diploma endorsement may over time support workforce preparation in the sectors and disciplines involved, and paid parental leave may affect educator recruitment and retention, but any such effect is indeterminable.

Beth Scioneaux
Deputy Superintendent
2609#072

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Special Education
(LAC 28:XLIII.511; and
LAC 28:CLVII.701, 703, 705, and 707)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:961 et seq., the Board of Elementary and Secondary Education (BESE) proposes to amend LAC 28:XLIII in *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* and LAC 28:CLVII in *Bulletin 135—Health and Safety*. The proposed revisions implement two Acts of the 2026 Regular Legislative Session. Act 943 enacted R.S. 17:1946(B)(3) and places the burden of proof in a special education due process hearing on the local education agency, including the burden of persuasion and production, as to the appropriateness of a student's program or placement or of the program or placement the agency proposes, to be met by a preponderance of the evidence. Act 944 amended and reenacted R.S. 17:173(A)(2)(introductory paragraph), (c), (e), and (h) and (D) and enacted R.S. 17:173(A)(2)(l) and (B)(9),

relative to behavioral health services for public school students. The revisions require that medically necessary behavioral health services be provided in or outside of a physical classroom, require each public school governing authority to post its implementing policy on its website and include it in the student handbook, establish a school-based service delivery review meeting and the timeline for holding it, provide that an applicable student plan controls where it conflicts with a provider's treatment plan, and set expectations for provider conduct on campus.

Title 28

EDUCATION

Part XLIII. Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act

Subpart 1. Students with Disabilities

Chapter 5. Procedural Safeguards

Subchapter A. Due Process Procedures for Parents and Students

§511. Impartial Due Process Hearing and Hearing Officer Appointments

A. - I.5. ...

J. Burden of Proof. In any special education due process hearing, the local education agency shall have the burden of proof, including the burden of persuasion and production, relative to the appropriateness of a student's program or placement or the appropriateness of the program or placement proposed by the agency. This burden shall be met by a preponderance of the evidence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2072 (October 2008), amended LR 38:2367 (September 2012), LR 51:60 (January 2025), LR 52:

Part CLVII. Bulletin 135—Health and Safety

Chapter 7. Behavioral Health Services

§701. Definitions

Medically Necessary Services—any services provided for diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease except for clinical trials that are described within the policy, not for experimental, investigational, or cosmetic purposes, and are within the generally accepted standards of medical care in the community, not solely for the convenience of the insured, the insured's family, or the provider.

School-Based Service Delivery Review Meeting—a meeting held, either in person or virtually, for the purpose of reviewing the delivery of behavioral health services in the school setting, including the behavioral health provider's role, applicable student plans, classroom expectations, communication, scheduling, and other procedures necessary to support uninterrupted instruction and appropriate coordination between school personnel and the behavioral health provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944 and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:46 (January 2025), amended LR 52:

§703. Behavioral Health Services for Students

A. ...

B. Each public school governing authority shall adopt a policy to implement the provisions of this Section. The policy shall not create onerous requirements for behavioral health providers resulting in a delay or barrier to the provision of medically necessary services. The policy shall be made available to the public by, at a minimum, posting it on the public school governing authority's website, and shall be included in the student handbook. The policy, at a minimum, shall include:

1. - 4. ...

5. A public school governing authority shall not prohibit a behavioral health evaluation, assessment, or authorized treatment plan from being performed on school property in order to establish medical necessity or deliver medically necessary services. Behavioral health services shall be provided in or outside of a physical classroom, to the extent that it is medically necessary, during any part of the school day, including any and all instructional time in courses including but not limited to English, reading, mathematics, and science. The school administrator and service provider shall work collaboratively to create a consistent schedule that meets the medical needs of the student and complies with the provider's ethical code of conduct. In developing the student's plan, consideration shall include impacts on the school's operations and a student's testing schedule. If the parties cannot agree, then the parties shall engage in a dispute resolution process set forth by LDOE in accordance with §705 of this Chapter.

6. - 7. ...

8. While on a school campus, a behavioral health provider shall comply with, and abide by, the terms of any Individualized Education Program (IEP), Individualized Accommodation Plan (IAP), Section 504 Plan, Behavior Management Plan, or Individualized Healthcare Plan (IHP) applicable to a student who is a patient of the provider. The services furnished by a provider shall be incorporated into a written treatment plan applicable to the student.

9. - 11. ...

12. If supervision of the behavioral health provider is conducted virtually, no student other than the student receiving behavioral health services shall be recorded.

13. The contract or agreement between a public school governing authority and a behavioral health provider may specify whether a school principal may dismiss a behavioral health provider staff member from the campus and the terms under which such a dismissal is permissible.

14. In the event of a conflict between a student's IEP, IAP, Section 504 Plan, Behavior Intervention Plan (BIP), or IHP and a behavioral health provider's written treatment plan, the applicable student plan shall control with respect to the educational services and supports addressed by that plan.

15. Medically necessary behavioral health services authorized under this Chapter are not required to be included in any student plan identified in this Subsection as a condition of being delivered on school property, and the absence of such services from any such student plan shall not constitute a basis to deny such services.

C. - F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944, 34 CFR 300.320, and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:46 (January 2025), amended LR 52:

§705. Behavioral Health Service Complaint Procedures

A. Complaint Procedures. The LDOE shall establish written procedures for the purpose of resolving any complaint alleging that a public school governing authority has violated a requirement of R.S. 17:173 or this Chapter and that meets the requirements herein by providing for the filing of a formal written complaint with the LDOE and provide for a dispute resolution process relative to behavioral health services provided in accordance with this Chapter.

1. A parent or legal guardian shall be the sole person permitted to file a dispute resolution claim in relation to a student.

2. A claim shall be filed only after an alleged incident has occurred.

3. In the event of a conflict between a student's IEP, IAP, Section 504 Plan, Behavior Intervention Plan (BIP), or IHP and a behavioral health provider's written treatment plan, the applicable student plan shall control with respect to the educational services and supports addressed by that plan.

B. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944, 34 CFR 300.320, and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:48 (January 2025), amended LR 52:

§707. School-Based Service Delivery Review Meeting

A. Within twenty-one days after a parent or legal guardian submits a behavioral health treatment plan to a school administrator, and no later than fourteen school days after behavioral health services begin, the school administrator or designee shall ensure that a school-based service delivery review meeting is held in person or virtually.

B. At a minimum, the meeting shall include the school administrator or designee, the student's classroom teacher or teachers, and the behavioral health provider. The meeting may also include the student's special education teacher, case manager, or other school employee responsible for implementation of the student's IEP, IAP, Section 504 Plan, BIP, or IHP.

C. Behavioral health services may begin prior to the meeting if reasonable efforts are made to coordinate with school personnel. A behavioral health provider may initiate and continue medically necessary services, and the school shall provide reasonable access to the student, pending completion of the review meeting. Reasonable access includes the ability to enter the school, observe the student, and deliver authorized services during the school day in coordination with instructional activities.

D. The review meeting shall address, at a minimum, the following:

1. review of the provider's written treatment plan and any applicable student plan identified in this Section;

2. the role and responsibilities of the behavioral health provider while on campus, including activities to be conducted in the classroom during instructional time;

3. the classroom routines, school policies, and behavioral expectations applicable to the student;

4. the method and frequency of ongoing communication between the provider and school personnel and the chain of communication for questions or concerns;

5. the schedule for services during the school day, including coordination with instructional activities, assessments, and schoolwide events; and

6. procedures for requesting a follow-up meeting when the provider changes or there is a material change in the student's classroom or educational placement or in the provider's treatment plan.

E. The school-based service delivery review meeting shall not take the place of any meeting required by a student's IEP.

F. A behavioral health provider delivering services in accordance with this Chapter shall use reasonable efforts to minimize disruption to instruction and classroom management. Recommendations, concerns, or requested changes regarding classroom strategies, interventions, accommodations, modifications, supports, or safety procedures shall be communicated to the teacher and the school administrator or designee outside the presence of other students, except when immediate action is necessary to prevent imminent risk of harm to the student or another person.

G. A behavioral health provider shall not direct, supervise, or evaluate the job performance of a teacher or other school employee. A provider's role in the classroom is limited to delivery of services to the designated student, which may include collaboration with school personnel to support implementation of the student's treatment plan. A provider shall not implement or direct the implementation of medically necessary services that knowingly interfere, impede, or conflict with services the school is legally required to provide under a student plan identified in this Section without collaboration and agreement between service providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944, 34 CFR 300.320, and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 52:

Family Impact Statement

In accordance with Section 972 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on the Rule proposed for adoption, repeal or amendment. All Family Impact Statements shall be kept on file in the State Board Office which has adopted, amended, or repealed a rule 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 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 the Rule proposed for adoption, amendment, or repeal. All Poverty Impact Statements shall be in writing and kept on file in the state agency which has adopted, amended,

or repealed a rule 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 one hundred 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 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 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

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

2. the total direct and indirect effect on the cost to the providers to provide the same level of service; or

3. the overall effect on 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, October 12, 2026, to Tavares Walker, 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 Tavares Walker, 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.

Tavares A. Walker
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES RULE TITLE: Special Education

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

The proposed rule change amending LAC 28:XLIII in *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* may result in an indeterminable

increase in per-case expenditures for local education agencies (LEAs) associated with special education due process hearings. Shifting the burden of proof from the petitioner to the LEA may require additional preparation, documentation, and presentation of evidence, potentially increase attorney and staff time and associated legal costs. State data indicates approximately 40 to 45 special education complaints are filed annually, with only a small number proceeding to a full hearing.

The proposed rule change amending LAC 28:CLVII in *Bulletin 135—Health and Safety* requires LEAs to revise existing behavioral health services policies, post such policies on their websites, include them in student handbooks, coordinate scheduling of behavioral health services provided inside and outside of physical classrooms as medically necessary, and coordinate and conduct school based service delivery review meetings within specified timelines. While this is anticipated to increase administrative workload for LEAs, any resulting impact on expenditures is indeterminable.

There are no anticipated implementation costs or savings to state governmental units as a result of the proposed rule change, which amends LAC 28:XLIII in *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act* and to implement Acts 943 and 944 of the 2026 Regular Legislative Session. The Louisiana Department of Education will administer the behavioral health complaint and dispute resolution procedures and process due process hearing requests using existing staff and previously appropriated funds.

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

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.

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

Parents of students with exceptionalities may benefit from the proposed rule change as the burden of proof in special education due process hearings would shift from the petitioner to the local education agency (LEA). The change may reduce the evidentiary burden on parents involved in due process proceedings.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There is no anticipated effect on competition or employment in the public or private sectors as a result of the proposed rule change.

Beth Scioneaux
Deputy Superintendent
2609#077

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Hazardous Waste and Hazardous Materials
(LAC 33:V.Chapters 1, 3, 4, 10, 15, 30, 37, 43, and 51)

Under the authority of the Louisiana Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Hazardous Waste regulations, LAC 33:V.Chapters 1, 3, 4, 10, 15, 30, 37, 43, and 51 (HW142).

The proposed Rule consolidates duplicative text in LAC 33:V.Chapter 43 (Interim Status). Where a Chapter 43 Section reproduces in full a standard already codified elsewhere in LAC 33:V, the reproduced text is replaced with a cross-reference in the form "Interim status facilities must comply with LAC 33:V.____." Existing cross-references are conformed to cite the specific Subsections and Paragraphs that apply rather than an entire Section. The proposed Rule amends 31 Sections and reduces Chapter 43 by approximately 38,400 words.

Chapter 43 was built Section by Section beginning in 1984 and has been amended more than twenty times since. Rather than referring interim status facilities to standards already stated elsewhere in LAC 33:V, the Chapter often reproduced those standards verbatim, so the same requirement now appears in two places. A departmental review identified 98 Chapter 43 Sections within confirmed near-duplicate clusters, the largest comprising 43 Sections of substantially identical text. Duplication of this kind creates a maintenance burden and a compliance risk. When the underlying standard is amended, the duplicated text must be separately located and amended, or the two provisions drift apart and leave the regulated community with two differently worded statements of one obligation. A cross-reference causes future amendments to carry through automatically.

Within Chapter 43, the proposed Rule replaces the text of 45 Sections with a cross-reference to the standard that already governs, repeals 11 Sections whose requirements are stated in LAC 33:V.Chapter 15 and makes conforming or clerical corrections in the remaining 15 Sections. The 11 repealed Chapter 43 Sections are §§4339, 4341, 4343, 4345, 4347, 4349, 4353, 4355, 4356, 4359 and 4361, which address contingency planning, the emergency coordinator, emergency procedures, use of the manifest system, manifest discrepancies, unmanifested waste reports, recordkeeping, and the annual report. Each requirement continues to apply to interim status facilities through LAC 33:V.Chapter 15, and Sections 4337 and 4351 are amended to state that application expressly.

Outside Chapter 43, the proposed Rule amends Section 105 (Program Scope) to remove obsolete references to the Department of Natural Resources and to the February 1, 1984, transfer of authority, to update the mailing address of the United States Environmental Protection Agency office that receives written agreements, and to conform the judicial review and rulemaking petition provisions to current law. It also removes an obsolete telephone number for reporting unauthorized discharges and makes clerical corrections in Sections 325 and 3705. In Chapter 51, a correction is made and obsolete and redundant fee provisions are removed.

The basis and rationale for the proposed Rule are to simplify and modernize the structure of Chapter 43 without altering the obligations it imposes, and to eliminate the risk that duplicated provisions diverge from the standards they replace. The proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.