



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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August 10, 2023

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 July 20, 2023, Notice of Intent that was promulgated on pages 1296-1299 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 October 20, 2023, issue of the *Louisiana Register*.

The following document is attached:

1. A copy of the Notice of Intent.

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

SND:ell

Attachment (1)

- c: Lily Dugas, Secretary, 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

stages of early childhood. The ELDS provide age-appropriate goals for children's learning and development that guide teachers, caregivers, families, and other early childhood professionals on the types of experiences and activities children should have during their earliest years. ELDS can be used to support developmentally appropriate curriculum and assessment and to outline a progression of development and learning that supports success in school and in life.

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

The proposed rule change 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 rule change may require child care providers to participate in further trainings; however, LDE covers much of the cost of these trainings through Child Care Resource and Referral Agencies and/or through online trainings developed and provided by LDE.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Beth Scioneaux
Deputy Superintendent
2307#058

Patrice Thomas
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.103, 503, 509, 511, 513, and 519)

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 in *Bulletin 140—Louisiana Early Childhood Care and Education Network*. The aforementioned revisions provide the inclusion in definitions of family child care home with current academic approval for early childhood care and education programs and sites. Further revisions update observation requirements, child-to-teacher ratios, and technical edits.

Title 28

EDUCATION

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

Chapter 1. General Provisions

§103. Definitions

* * *

Early Childhood Care and Education Program (Program)—an early learning center-based, school-based organization, or family child care home with current academic approval, that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten.

Early Childhood Care and Education Site (Site)—a distinct early learning center-based, school-based location, or family child care home with current academic approval, that is providing early childhood care and education to

children ages birth to five years who have not yet entered kindergarten.

* * *

LA 4 Program—the Cecil J. Picard LA 4 Early Childhood Program that provides funding for PreK classrooms for four-year-old children who are eligible to enter kindergarten the following school year.

LDOE—Louisiana Department of Education, may also be referenced as LDE or department.

* * *

Publicly-Funded Early Childhood Care and Education Program—an early learning center-based, school-based organization, or family child care home with current academic approval, that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten with funds from either CCAP, Early Head Start, Head Start, NSECD, LA 4 Program, 8(g) block grant, title 1 of ESSA or IDEA part B, other local, state, or federal funds, or that is authorized to receive CCAP, or that participates in the quality start child care rating system.

Publicly-Funded Early Childhood Care and Education Site—a distinct early learning center-based, school-based location, or family child care home with current academic approval, that is providing early childhood care and education to children ages birth to five years who have not yet entered kindergarten in a full-day setting with funds from either CCAP, Early Head Start, Head Start, NSECD, LA 4 Program, 8(g) block grant, title 1 of ESSA or IDEA part B, other local, state, or federal funds, or that is authorized to receive CCAP, or that participates in the quality start child care rating system.

* * *

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.23 and R.S. 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2580 (December 2015), amended LR 42:1871 (November 2016), LR 44:1438 (August 2018), LR 49:

Chapter 5. Early Childhood Care and Education Accountability System

§503. Coordinated Observation Plan and Observation Requirements

A. Coordinated observation is the local process by which each community network ensures that every classroom, including virtual classrooms, in a publicly-funded site in the community network receives two *CLASS*® observations each school year.

B. - B.2.b. ...

c. *CLASS*® observations for pre-K classrooms must include all three Pre-K-3rd *CLASS*® domains, which are emotional support, classroom organization, and instructional support, and all dimensions contained within.

3. - 4.b....

c. a classroom that has all pre-K children or a classroom that has a mix of toddler and Pre-K children in which the majority or at least half are pre-K children shall be observed with the Pre-K-3rd *CLASS*®;

d. a classroom that has a mix of pre-K and kindergarten age children shall be observed using the Pre-K-3rd *CLASS*® when either the majority of the class is pre-K or if the classroom receives early childhood funding;

4.e. - 5.c.v. ...

d. Observers who are receive notification from the LDOE under Clause 5.c.i of this Subsection must meet the reliability requirements of 80 percent accuracy through annual recertification prior to being permitted to complete observations for the community network.

B.3.e. - C.2.b. ...

3. Submission of Observation Schedules

a. For the fall observation period, the observation schedule must be submitted to the LDOE via the Early Childhood *CLASS*® portal or a comparable LDOE-approved system by October 1 unless otherwise specified by the department.

b. For the spring observation period, the observation schedule must be submitted to the LDOE via the Early Childhood *CLASS*® portal or a comparable LDOE-approved system by February 1 unless otherwise specified by the department.

C.3.c. - D.1. ...

2. Lead agencies seeking a waiver shall submit a written request to the LDOE prior to or at the time of the submission of the coordinated enrollment plan. The request shall cite the specific requirement for which a waiver is being requested and shall clearly state the reasons why the waiver is being requested and why it should be granted. Waiver requests shall include any supporting documentation that substantiates the need for the waiver.

D.3. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.30 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2586 (December 2015), amended LR 42:1872 (November 2016), LR 43:2131 (November 2017), LR 44:1440 (August 2018), LR 45:1453 (October 2019), LR 47:452 (April 2021), LR 48:1010 (April 2022), LR 49:

§509. Performance Rating Calculations for Publicly-Funded Sites

A. - A.1. ...

2. For 2020-2021 school year and beyond, the performance rating for each publicly-funded site shall be based on the average of the dimension-level infant, toddler, and pre-K-3 observation results from the fall and spring observation periods for all infant, toddler, and pre-K classrooms within the site, excluding the negative climate dimensions.

a. - 3. ...

4. Sites that have classrooms which receive a score of 3.5 or above for the negative climate dimension and sites that have infant classrooms that receive a "low" on the lack of adult negativity indicator will receive a notice in writing at the end of the observation period in which the score was received. If a site receives a notice for two consecutive observation periods, an indicator of high negative climate, low lack of adult negativity or an indicator for both may be reported on the performance profile. Lack of adult negativity is an indicator used in infant *CLASS*® and is comparable to the pre-K-3 and toddler negative climate dimension. Like all indicators for *CLASS*®, the measure is expressed as "high," "medium," or "low" rather than as a numerical score.

B. - G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2587 (December 2015), amended LR 42:1873 (November 2016), LR 44:1442 (August 2018), LR 45:1453 (October 2019), LR 47:1286 (September 2021), LR 48:1010 (April 2022), LR 49:

§511. Performance Rating Calculations for Community Networks

A. - A.3. ...

B. The *CLASS*® observation results will be determined by averaging the results of all fall and spring dimension-level toddler and pre-K-3 observation results for all toddler and pre-K classrooms within the community network excluding negative climate. Beginning in the 2020-2021 school year, the *CLASS*® observation results will be determined by averaging the results of all fall and spring dimension-level infant, toddler, and pre-K observation results for all infant, toddler, and pre-K classrooms within the community network, excluding negative climate.

1. - 2.b.ii. ...

C. The equitable access score performance rating shall be determined by calculating the access achieved by the community network for all at-risk four-year-old children in the community network coverage area. Points are earned on a four-level rating scale according to:

Percentage of At-Risk Four-Year-Olds Served	Rating

65-74.99 percent	Approaching Proficient

D. - I. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.21 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2588 (December 2015), amended LR 42:1874 (November 2016), LR 44:1442 (August 2018), LR 45:1454 (October 2019), LR 47:1286 (September 2021), LR 49:

§513. Informational Metrics of Best Practices

A. Informational metrics are measures of a publicly-funded site and a community network's use of the following early childhood care and education best practices. The performance profile shall report the publicly-funded site and community network's use of the best practices identified as an investment in quality measures, which shall include, but is not limited to:

1. Child-to-teacher ratios. Publicly-funded sites maintain child-to-teacher ratios based on the age of children and that are at or better than the minimum standards required in accordance with LAC 28:CLXI.137 or LAC 28:CLXV.139, as applicable.

a. To achieve gold-level ratios, publicly-funded sites shall at minimum meet the following child-to-teacher ratios.

i. Family Child Care Provider. If any children in care are 24 months old or younger, the maximum child-to-teacher ratio shall be 4:1.

ii. Early Learning Center or School-based Organization. The maximum child-to-teacher ratio shall be as shown below.

Age	Ratio
Birth to 1 year	4:1
1 year to 2 years	4:1

Age	Ratio
2 years to 3 years	6:1
3 years to 4 years	8:1
4 years to 5 years	10:1

b. To achieve silver-level ratios, publicly-funded sites shall meet at minimum the following child-to-teacher ratios.

i. Family Child Care Provider. If any children in care are 24 months old or younger, the maximum child-to-teacher ratio shall be 5:1.

ii. Early Learning Center or School-based Organization. The maximum child-to-teacher ratio shall be as shown below.

Age	Ratio
Birth to 1 year	4:1
1 year to 2 years	6:1
2 years to 3 years	8:1
3 years to 4 years	10:1
4 years to 5 years	12:1

c. To achieve bronze-level ratios, publicly-funded sites shall meet at least the minimum child-to-teacher ratios.

i. Family Child Care Provider. The maximum child-to-teacher ratio shall be in accordance with LAC 28:CLXV.139.

ii. Early Learning Center or School-based Organization. The maximum child-to-teacher ratio shall be in accordance with LAC 28:CLXI.137.

d. For all levels of ratios, early learning centers or school-based organizations shall meet the group size requirement in accordance with LAC 28:CLXI.137.

A.2. - E.2. ...

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 41:2588 (December 2015), amended LR 42:1875 (November 2016), LR 43:2131 (November 2017), LR 49:

§519. Waivers of Accountability System Requirements

A. - C. ...

D. Any site requesting a waiver from an accountability system requirement for three consecutive observation periods will not be granted a subsequent waiver until a full academic year has elapsed from the most recent waiver approved by the LDOE. If the classroom has no comparable local or third-party scores available, a score of 1.00 shall be assigned to each missing *CLASS*® domain score, in accordance with §503 of this Chapter.

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 41:2590 (December 2015), amended LR 49:

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 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, August 9, 2023, 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 140—Louisiana Early Childhood Care and Education Network

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

There are no anticipated implementation costs or savings to state or local governmental units as a result of the proposed rule change. The proposed rule change provides for the inclusion of family child care homes with current academic approval in the definition of early childhood care and education programs and sites. The proposed change also includes revisions to observation requirements, child-to-teacher ratios, and technical edits.

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

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

Beth Scioneaux
Deputy Superintendent
2307#051

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—The Louisiana School, District, and State
Accountability System—Graduation Appeals Process
(LAC 28: CXV. 717, 2321, and 2322)

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—The Louisiana School, District, and State Accountability System*. The proposed revisions create an appeals process for graduation. This appeals process creates a rigorous evaluation method in which in a student's senior year, a student, who fails to achieve a "passing" score on the end-of-course exam in a testing pair may demonstrate proficiency

using a portfolio. All students will still be required to take all state assessments. The change will be to allow for an appeals process for purposes of graduation only.

Title 28

EDUCATION

Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 7. Records and Reports

§717. Reports of High School Credit

A. -A.3. ...

B. Reporting and Review for State Diplomas Issued on Appeal

1. No later than October 1 annually, LEAs shall submit the following graduation data by school site via the student transcript system (STS). The LDOE will compile and submit a report to BESE annually in December, which will include the following:

- a. the total number of students issued a diploma;
- b. the number of students issued a diploma via an appeal of the assessment requirement granted via SBLC;
- c. the number of students considered by an SBLC for appeal of the assessment requirement;
- d. the number of students in the graduation cohort who did not earn a diploma by August 31 of that year; and
- e. an example of three exemplary portfolios that may be used by the department as examples for LEAs and school sites.

2. At the January 2026 BESE meeting the LDOE shall submit a report to BESE, detailing data for the initial two school years of implementation regarding appeals to the assessment requirements for the purposes of graduation eligibility. The report shall serve as a reference for BESE to use in determining if policy revisions are necessary. The LDE will report to BESE annually thereafter and will include the following:

- a. the percentage of college enrollment after high school exit of all graduating students, students issued a diploma via the graduation appeals process, and non-graduates in each respective graduation cohort;
- b. to the extent that data is available, the percentage of employment after high school exit of all graduating students, students issued a diploma via the graduation appeals process, and non-graduates in each respective graduation cohort; and
- c. the number of IBCs earned by type of all graduating students, students issued a diploma via the graduation appeals process, and non-graduates in each respective graduation cohort.

C. Auditing of Diplomas Issued on Appeal

1. In the event the number of students, issued a diploma via an appeal, exceeds three percent of the respective graduation cohort of a school site, the governing LEA shall submit additional data to LDOE to be included in the BESE annual report. At a minimum, the additional data shall include Subgroup population information as follows for each school site which exceeds the three-percent threshold:

- a. African American;
- b. American Indian/Alaskan Native;
- c. Asian;
- d. Hispanic;
- e. white;