



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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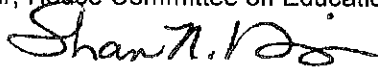
Thomas Roque
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February 10, 2022

MEMORANDUM

TO: Senator Patrick Page Cortez, Senate President
Representative Clay Schexnayder, Speaker of the House
Senator Cleo Fields, Chair, Senate Committee on Education
Representative Lance Harris, Chair, House Committee on Education

FROM: Shan N. Davis, Executive Director 
Board of Elementary and Secondary Education

RE: Summary Report on Board of Elementary and Secondary Education Proposed Rulemaking

Pursuant to R.S. 49:968(D)(1)(b), the Board of Elementary and Secondary Education hereby submits to you this summary report and announces its plan to proceed with rulemaking by finalizing the January 20, 2022, Notice of Intent that was promulgated on pages 92-100 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 April 20, 2022, issue of the *Louisiana Register*.

The following document is attached:

1. A copy of the Notice of Intent.

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

SND:slr

Attachment (1)

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

Shan N. Davis
Executive Director

Cade Brumley
State Superintendent

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS 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 Scjoneaux
Deputy Superintendent
2201#051

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 126—Charter Schools
(LAC 28:CXXXIX.2715, 2717, 2719, 2803,
4301, 4303, 4305, 4307, 4309, 4311, 4313,
4315, 4317, 4319, 4321, and 4323)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC28:CXXXIX. Bulletin 126 – *Charter Schools* in accordance with legislation enacted during the Louisiana 2021 Regular Legislative Session.

Title 28

EDUCATION

Part CXXXIX. Bulletin 126—Charter Schools

Chapter 27. Charter School Recruitment and Enrollment

§2715. Remote School Registration and Enrollment of Children of Military Personnel Transferring to Louisiana

A. A local educational governing authority shall allow a dependent child of an active duty member of the United States Armed Forces, the military reserve forces, or the National Guard or a Department of Defense civilian to register and preliminarily enroll in a public school under its jurisdiction by remote means, including electronic means, prior to becoming a resident of Louisiana, if:

1. the parent or legal guardian of the student is transferred or pending transfer to a military installation or comparable duty location in Louisiana pursuant to an official military order;
2. the parent or legal guardian of the student provides a copy of the official military order transferring the parent or legal guardian to a military installation or comparable duty location in Louisiana to the local educational governing authority; and
3. the parent or legal guardian of the student completes and submits to the local educational governing authority all required registration and enrollment forms and documentation, except that proof of residency, which shall be required within ten days after the arrival date specified on the parent or legal guardian transfer orders.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:101.

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

§2717. Purple Star School Award Program

A. A school shall be labeled a “Purple Star School” if it has exhibited a major commitment to military-connected students and families, as demonstrated by meeting the following requirements.

1. The school has designated a staff member as a military liaison to serve as the primary point of contact for military-connected students. The designated staff member shall:

- a. identify special considerations needed by military-connected students and families; and
- b. develop training to inform teachers and other school personnel of such special considerations.

B. Schools labeled as “Purple Star Schools” shall:

1. maintain a dedicated page on the school website featuring resources for military-connected students and families; and

2. maintain a student-led transition program to provide peer support for military-connected students

C. The local educational governing authority of each Purple Star School shall:

1. adopt a resolution stating the commitment of the support for military-connected students and families; and

2. assign a central office staff member to be the contact for the school-based liaison and military-connected students and families.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:101.

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

§2719. Reward Eligibility

A. A school shall be labeled a “reward school” if it earns the equivalent to an “A” letter grade on the progress index.

B. Schools labeled as “reward schools” shall be eligible for financial rewards, as funds are available and as determined by the department.

C. Schools will not be eligible for reward status if they are labeled “urgent intervention required” for any subgroup.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:101.

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

Chapter 43. Discipline

§4301. Disciplinary Regulations

A. Each charter school shall adopt such rules and regulations as it deems necessary to implement and control any disorderly conduct in the school or on the playground of the school, on any school bus, on the street or road while going to and from school, or during intermission and recess, or at any school sponsored activity or function.

1. The plan shall not prohibit a teacher from removing a pupil from the classroom for disciplinary reasons.

2. The plan shall address student behavior with a focus on evidence-based interventions and supports, prioritizing classroom- and school-based interventions in lieu of out-of-school disciplinary removals to address student misconduct in order to minimize the loss of academic instructional time.

3. Each charter school shall adopt rules regarding the reporting and review of disciplinary actions.

B. Teachers, principals, and administrators may, subject to any rules as may be adopted by the charter school, apply

reasonable disciplinary and corrective measures to maintain order in the schools (refer to R.S. 17:416 and R.S. 17:223).

C. The disciplinary rules (regulations) shall be made known to teachers, parents, and students and shall be reasonably and consistently enforced.

D. Any principal who fails to act on a report of student violations of disciplinary regulations shall explain his/her reasons for such an action to the superintendent of the charter school by the administrator is employed, or to the superintendent designee.

1. Any public school administrator and any administrator designee who is required to make a recommendation, resolve an issue, or apply a disciplinary action in a matter involving the discipline of a student shall recuse themselves from doing so whenever a member of the immediate family of the school administrator or of the administrator designee is involved in any manner in the recommendation to be made, the issue to be resolved, or the action to be applied.

a. Immediate family means the individual's children, brothers, sisters, parents, and spouse and the children, brothers, sisters, and parents of the spouse.

b. In case of such recusal, the recommendation shall be made by, the issue determined by, or the disciplinary action taken by the superintendent or an impartial designee of the superintendent.

E. Students, who, through no fault of their parents or guardians or other persons having charge of them, regularly disrupt the orderly processes of the school to which they have been assigned, shall be considered as delinquents and may be reported by the visiting teacher or supervisor of child welfare and attendance, to the district or family court of the parish having jurisdiction in juvenile matters, there to be dealt with in the manner prescribed by law.

F. Schools shall provide due process prior to suspensions and expulsions.

G. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior or who are suspended for 10 days or less shall be assigned school work missed and shall receive either full or partial credit for such work upon satisfactory and timely completion as determined by the principal or designee and upon the recommendation of the student's teacher. A student who is suspended for more than 10 days or is expelled shall receive educational services in an alternative school site, shall be assigned school work by a certified teacher, and shall receive credit for school work upon satisfactory and timely completion as determined by the teacher. Such work shall be aligned with the curriculum used at the school from which the student was suspended or expelled.

1. Upon removal from the classroom for disruptive, dangerous, or unruly behavior, the principal or designee shall advise the student of the misconduct and basis for accusation, and the student shall be given an opportunity at that time to offer rebuttal of the accusation. The principal or designee then shall conduct a counseling session with the student as may be appropriate to establish a course of action consistent with school board policy to identify and correct the behavior for which the student is being disciplined. The principal or designee shall provide oral or written feedback to the parent or guardian of the student and may also provide oral or written feedback to the teacher initiating the removal.

Feedback to teachers may include guidance and support on practicing effective classroom management including but not limited to positive behavior supports.

2. Students who are removed from the classroom for disruptive, dangerous, or unruly behavior shall be permitted to return to the class after:

a. no fewer than 30 minutes for students in kindergarten through fifth grade unless consent is given by the teacher initiating the disciplinary action;

b. the end of the class period for students in sixth through twelfth grade unless consent is given by the teacher initiating the disciplinary action;

c. the principal or designee has implemented at least one or more of the following disciplinary actions:

i. conferencing with the principal or the principal designee;

ii. referral to counseling;

iii. peer mediation;

iv. referral to the school building level committee;

v. restorative justice practices;

vi. loss of privileges;

vii. detention;

viii. in-school suspension;

ix. out-of-school suspension;

x. initiation of expulsion hearings;

xi. referral for assignment to an alternative setting;

xii. any other disciplinary measure authorized by

the principal with the concurrence of the teacher of the school building level committee pursuant to law and charter school policy.

3. When a student is removed from the classroom for disruptive, dangerous, or unruly behavior, the teacher or the principal or designee may require that the parent or legal guardian of the student have a conference with the teacher or the principal or designee. Such conference may be in person, by telephone, or by other virtual means.

4. Upon the third disciplinary removal from the same classroom, the teacher and principal shall discuss the disruptive behavior patterns of the student and the appropriate disciplinary action prior application of a disciplinary measure. A conference between the teacher or other appropriate school employee and the student's parent or legal custodian may be required prior to student readmission to the same classroom. Such conference may be in person, by telephone, or by other virtual means. If required by the school or charter school policy, the school shall give written notice to the parent.

5. For students who experience multiple behavioral incidents or disciplinary referrals, a principal or designee shall consider a referral of the matter to an appropriate school building level committee. If the disruptive behavior persists, the teacher may request that the principal transfer the student into another setting.

H. Each local educational governing authority charter school shall adopt rules regarding the implementation of in-school suspension and detention.

I. Each charter school shall establish a discipline policy review committee comprised of sixteen members in accordance with the mandates of R.S. 17:416.8. The charter school shall establish procedures for appointing the two parent members.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:223-224, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1282 (June 2005), amended LR 36:1225 (June 2010), LR 37:1132, 1133 (April 2011), LR 39:476 (March 2013), LR 39:2210 (August 2013), LR 39:3069 (November 2013), LR 48:

§4303. Student Code of Conduct

A. Each charter school shall adopt a student code of conduct for the students in the schools under its jurisdiction.

1. Such student code of conduct shall be in compliance with all existing rules, regulations, and charter school and BESE policies and all state laws regarding student discipline and shall include necessary disciplinary action to be taken against any student who violates the code of conduct.

2. Each charter school shall adopt and incorporate into its student code of conduct a policy prohibiting the bullying of a student by another student, which includes the definition of bullying and all other requirements listed in §1303 of this Bulletin.

3. Each charter school shall include in its student code of conduct the definition of dating violence, data violence warning signs and instructions for reporting or seeking assistance for acts of dating violence.

4. Each charter school shall include in its student code of conduct progressive levels of minor through major infractions and identify corresponding minor through major interventions and consequences.

a. Before an initial referral for student expulsion, codes of conduct shall require the prior administration of interventions in accordance with the minor tiers in the code of conduct, except in instances where the expulsion referral is the result of accumulated minor infractions in accordance with the code of conduct, or the underlying incident threatens the safety and health of students or staff.

b. Expulsions shall be reserved for the major tier of behavioral infractions involving weapons or drugs, or when the safety of students and staff is at risk.

5. Each charter school shall include in its code of conduct information detailing the appeal process for expulsions as described in §1311 of this Bulletin.

6. Each charter school shall include in its code of conduct clearly defined rules of conduct and expectations of students engaged in virtual instruction as well as clearly defined consequences of conduct, that respects the student and family rights to privacy and other constitutional rights while at home or in a location that is not school property.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:81, R.S. 17:223-224, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:477 (March 2013), amended LR 40:2530 (December 2014), LR 48:

§4305. Bullying

A. Policy. Each charter school shall develop and adopt a policy that prohibits the bullying of a student by another student.

1. The bullying policy must be implemented in a manner that is ongoing throughout the year and integrated with a school's curriculum, a school's discipline policies, and other violence prevention efforts.

2. The policy shall contain the definition of bullying found in this Section and shall address the following:

- a. behavior constituting bullying;
- b. the effect the behavior has on others, including bystanders; and
- c. the disciplinary and criminal consequences of bullying another student.

B. Training for School Personnel. Each charter school shall create a program to provide a minimum of four hours of training each year for new school employees who have contact with students, including bus drivers, with respect to bullying. The training shall be two hours each following year for all school employees who have contact with students and have received the four-hour training. The training shall specifically include the following:

1. how to recognize the behaviors defined as bullying;
2. how to identify students at each grade level who are most likely to become victims of bullying, while not excluding any student from protection from bullying;
3. how to use appropriate intervention and remediation techniques and procedures;
4. the procedures by which incidents of bullying are to be reported to school officials; and
5. information on suicide prevention, including the relationship between suicide risk factors and bullying.

C. Definition of Bullying

1. *Bullying* is defined as a pattern of one or more of the following behaviors:

- a. gestures, including but not limited to obscene gestures and making faces;
- b. written, electronic, or verbal communications, including but not limited to calling names, threatening harm, taunting, malicious teasing, or spreading untrue rumors;
- c. physical acts, including but not limited to hitting, kicking, pushing, tripping, choking, damaging personal property, or unauthorized use of personal property; and
- d. repeatedly and purposefully shunning or excluding from activities.

2. Behavior defined as bullying is exhibited toward a student, more than once, by another student or group of students and occurs, or is received by, a student while on school property, at a school-sponsored or school-related function or activity, in any school bus or van, at any designated school bus stop, in any other school or private vehicle used to transport students to and from schools, or any school-sponsored activity or event.

3. Bullying must have the effect of physically harming a student, placing the student in reasonable fear of physical harm, damaging a student's property, placing the student in reasonable fear of damage to the student's property, or must be sufficiently severe, persistent, and pervasive enough to either create an intimidating or threatening educational environment, have the effect of substantially interfering with a student's performance in school, or have the effect of substantially disrupting the orderly operation of the school.

D. Notice of Bullying Policy to students and parents. The charter school shall inform each student orally and in writing of the prohibition against the bullying of a student by another student, the nature and consequences of such actions, including the potential criminal consequences and loss of driver's license, and the proper process and procedure for reporting any incidents of bullying. A copy of the written notice shall also be delivered to each student's parent or legal guardian.

E. Reporting Incidents of Bullying. The charter school shall develop a procedure for the reporting of incidents of bullying using the bullying report form approved by charter school and available on the LDE website. The procedure shall include the following.

1. Students and Parents

a. Any student who believes that he or she is or has been the victim of bullying, or any student or parent or legal guardian, who witnesses bullying or has good reason to believe bullying is taking place, may report the bullying to a school official.

b. A student, or parent or guardian, may also report concerns regarding bullying to a teacher, counselor, other school employee, or to any parent chaperoning or supervising a school function or activity.

c. Any report of bullying shall remain confidential.

2. School Personnel and Chaperones. Any teacher, counselor, bus driver, or other school employee, whether full or part time, and any parent chaperoning or supervising a school function or activity, who witnesses or who learns of bullying of a student, shall report the incident to a school official. A verbal report shall be submitted by the school employee or parent on the same day as the school employee or parent witnessed or otherwise learned of the bullying incident, and a written report must be filed no later than two days thereafter.

3. Retaliation. Retaliation against any person who reports bullying in good faith, who is thought to have reported bullying, who files a complaint, or who otherwise participates in an investigation or inquiry concerning allegations of bullying is prohibited conduct and subject to disciplinary action.

4. False Reports. Making false reports about bullying to school officials is prohibited conduct and will result in disciplinary action.

F. Investigation Procedure. When a report of the bullying of a student by another student is received, the school shall conduct an investigation using the following procedure.

1. Timing. The investigation shall begin the next school day following the day on which the written report was received and shall be completed no later than 10 school days after receipt of the report. If additional information is received after the end of the 10-day period, the school official shall amend all documents and reports to reflect such information.

2. Parental Notification of Allegation of Bullying

a. Upon receiving a report of bullying, the school shall notify the parents or legal guardians of the alleged offender and the alleged victim no later than the following school day.

b. Under no circumstances shall the delivery of this notice to the parent or legal guardian, be the responsibility of an involved student. Delivery of notice by an involved student shall not constitute notice as is required by this Section.

c. Before any student under the age of 18 is interviewed, his parents or legal guardians shall be notified of the allegations made and shall have the opportunity to attend any interviews conducted with their child as part of

the investigation. If, after three attempts in a 48-hour period, the parents or legal guardians of a student cannot be reached or do not respond, the student may be interviewed.

d. All meetings with the parents or legal guardians of an alleged victim or an alleged offender shall be in compliance with the following:

i. separate meetings with the parents or legal guardians of the alleged victim and the alleged offender;

ii. parents or legal guardians of the alleged victim and alleged offender must be notified of the potential consequences, penalties and counseling options.

e. In any case where a school official is authorized to require a parent or legal guardian of a student under the age of 18 to attend a conference or meeting regarding the student's behavior, and after notice willfully refuses to attend, the principal or designee shall file a complaint with a court of competent juvenile jurisdiction, pursuant to *Children's Code* article 730(8) and 731.

f. A principal or designee may file a complaint pursuant to *Children's Code* article 730(1) or any other applicable ground when, in his judgment, doing so is in the best interests of the student.

3. Scope

a. The investigation shall include documented interviews by the designated school official of the reporter, the alleged victim, the alleged offender, and any witnesses.

b. The school official shall collect and evaluate all facts using the bullying investigation form approved by BESE and available on the LDE website.

c. The school official shall obtain copies or photographs of any audio-visual evidence.

4. Documentation. At the conclusion of a bullying investigation, and after meeting with the parents or legal guardians, the school official or school board shall:

a. prepare a written report containing the findings of the investigation, including input from students' parents or legal guardians, and the decision by the school official or school system official. The document shall be placed in the school records of both students. If completed entirely, the bullying investigation form may serve as the report;

b. promptly notify the reporter/complainant of the findings of the investigation and whether remedial action has been taken, if such release of information does not violate the law;

c. keep reports/complaints and investigative reports confidential, except where disclosure is required by law;

d. maintain reports/complaints and investigative reports for three years;

e. provide a copy of any reports and investigative documents to the charter school, as necessary.

5. Disciplinary Action. If the school official has determined bullying has occurred, and after meeting with the parents or legal guardians of the students involved, the school official shall take prompt and appropriate disciplinary action against the offender and report criminal conduct to law enforcement, if appropriate.

6. Charter School Reporting

a. The charter school shall electronically report all such documented incidences of bullying to the LDE using the LDE behavior report and incidence checklist to document the details of each reported incident of bullying.

7. Appeal

a. If the school official does not take timely and effective action, the student, parent, or school employee may report the bullying incident to the school board. The school board shall begin an investigation of any properly reported complaint of bullying no later than the next school day after the board receives the report.

b. If the school board does not take timely and effective action, the student, parent, or other school employee may report the bullying incident to the LDE. The LDE shall track the number of reports, shall notify the superintendent and the president of the charter school, and shall publish the number of reports by school district on its website.

8. Parental Relief. If four or more reports of separate incidents of bullying have been made, and no investigation has occurred, the parent or legal guardian of the alleged victim shall have the option to request that the student be transferred to another school operated by the charter school.

a. In order to exercise this option, the parent or legal guardian shall file a request with the superintendent of the charter school for the transfer of the student to another school under the charter school's jurisdiction.

b. The charter school shall make a seat available at another of its schools within 10 school days of receipt of the request for a transfer. If the charter school has no other school serving the grade level of the student, then within 15 school days of receipt of the request, the superintendent of the charter school shall:

i. inform the student and the student's parents or legal guardians and facilitate the student's enrollment in a statewide virtual school;

ii. offer the student placement in a full-time virtual program or virtual school under the jurisdiction of the charter school;

iii. enter into a memorandum of understanding with the superintendent of another LEA or charter school to secure a placement and provide for the transfer of the student to a school serving the grade level of the student, pursuant to R.S. 17:105 and 105.1.

c. If no seat or other placement is made available within 30 calendar days of the receipt of the request by the superintendent, the parent or legal guardian may request a hearing with the school board, which shall be public or private at the option of the parent or legal guardian. The school board shall grant the hearing at its next scheduled meeting or within 60 calendar days, whichever is sooner.

d. At the end of any school year, the parent or legal guardian may request that the charter school transfer the student back to the original school. The LEA shall make a seat available at the school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:415, R.S. 17:416, and R.S. 17:416.13.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:477 (March 2013), amended LR 39:3259 (December 2013), LR 48:

§4307. Classroom Management Training for School Staff

A. The school master plans for improving behavior and discipline required of charter schools shall make provision for pre-service and ongoing grade-appropriate classroom management training for teachers, principals, and other

appropriate school personnel regarding positive behavioral supports and reinforcement, conflict resolution, mediation, cultural competence, restorative practices, guidance and discipline, and adolescent development.

B. Charter schools shall provide ongoing classroom management courses and regularly review discipline data from each school to determine what additional classroom management training is needed, if any, and what additional classroom support activities should be provided by the principal and school administration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:252.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 37:1380 (May 2011), repromulgated LR 39:479 (March 2013), amended LR 39:2210 (August 2013), LR 48:

§4309. Reasons for Suspension

A. The school principals or designee may suspend from school any student, including a student with exceptionalities, for good cause in accordance with state law and local policy.

B. Students determined to be guilty of the following offenses may be suspended for the following reasons:

1. willful disobedience;
2. disrespect to a teacher, principal, superintendent, and/or member or employee of the local school board;
3. making an unfounded charge against a teacher, principal, superintendent, and/or member or employee of the local school board;
4. using unchaste or profane language;
5. immoral or vicious practices;
6. conduct or habits injurious to his/her associates, unless it can be reasonably concluded that the student is not the aggressor or responsible for instigating the confrontation and that use of such force was committed solely for the purpose of preventing a forcible offense, and that the force used must be reasonable and apparently necessary to prevent such offense;
7. using tobacco and/or using and possessing alcoholic beverages or any controlled dangerous substances governed by the Uniformed Controlled Dangerous Substance Law in any form in school buildings or on school grounds;
8. disturbing the school and habitually violating the rules;
9. cutting, defacing, or injuring any part of public school buildings;
10. writing profane or obscene language or drawing obscene pictures in or on any public school premises, or on any fence, sidewalk, or building on the way to or from school;
11. possessing firearms, knives, or other implements that can be used as weapons;
12. throwing missiles on the school grounds;
13. instigating or participating in fights while under school supervision;
14. violating traffic and safety regulations;
15. leaving the school premises without permission or his/her classroom or detention room without permission;
16. habitual tardiness or absenteeism; and
17. committing any other serious offense.

C. A student enrolled in grades prekindergarten through five shall not be suspended or expelled from school or

suspended from riding on any school bus for a uniform violation unless said offense is for willful disregard of school policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1283 (June 2005), repromulgated LR 39:479 (March 2013), amended LR 39:2210 (August 2013), LR 48:

§4311. Due Process for Suspensions

A. Prior to any suspension, the school principal or the principal designee shall advise the student in question of the particular misconduct of which he or she is accused as well as the basis for such accusation, and the student shall be given an opportunity at that time to explain his or her version of the facts to the school principal or his or her designee.

B. The principal, or the principal designee, shall contact by telephone at the telephone number shown on the pupil registration card or send a certified letter at the address shown on the pupil registration card to the parent or guardian of the student, giving notice of the suspension, the reasons therefore and establishing a date and time for a conference with the principal or his designee as a requirement for readmitting the student.

1. If the parent or guardian fails to attend the required conference within five school days of mailing the certified letter or other contact with the parent, the truancy laws shall become effective.

2. On not more than one occasion each school year when the parent or guardian refuses to respond, the principal may determine whether readmitting the student is in the best interest of the student.

3. On any subsequent occasions in the same year, the student shall not be readmitted unless the parent, guardian, or other appointed representative responds.

C. A student whose presence in or about a school poses a continued danger to any person or property or an ongoing threat of disruption to the academic process shall be immediately removed from the school premises without the benefit of the procedure described above; however, the necessary procedure shall follow as soon as is practicable.

D. Notice in writing of the suspension and the reasons thereof shall be given to the parent or parents of the suspended student.

E. Any parent, tutor, or legal guardian of a suspended student shall have the right to appeal to the superintendent or to a designee of the superintendent, who shall conduct a hearing on the merits of the case.

F. In all cases of suspensions, the parent, the superintendent of schools, and/or supervisor of child welfare and attendance or designee shall be notified in writing of the facts concerning each suspension, including the reasons therefore and terms thereof.

G. The decision of the superintendent on the merit of the case, as well as the term of suspension, shall be final, reserving the right to the superintendent to remit any portion of the time of suspension.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1283 (June 2005), repromulgated

LR 39:479 (March 2013), amended LR 39:2211 (August 2013), LR 48:

§4313. Reasons for Expulsions

A. Students may be expelled for any of the following reasons:

1. any student, after being suspended for committing any of the offenses listed in §4305, may be expelled upon recommendation by the principal of the public school in which the student is enrolled;

2. any student, after being suspended on three occasions for committing drugs or weapons offenses during the same school session, shall, on committing the fourth offense, be expelled from all the public schools of the parish or city school system wherein he or she resides until the beginning of the next regular school year, subject to the review and approval of the local educational governing authority;

3. the conviction of any student of a felony or the incarceration of any student in a juvenile institution for an act which, had it been committed by an adult, would have constituted a felony, may be cause for expulsion of the student for a period of time as determined by the board;

a. such expulsions shall require the vote of two thirds of the elected members of the local educational governing authority.

b. such expulsions shall not be for a period of time longer than the student's period of adjudication as determined by the applicable court presiding over the student's criminal matter, shall run concurrent to the student's period of disposition, and may require the student to serve the time left in the expulsion period as required by the superintendent or designee if the student was serving an expulsion period when the student was incarcerated for a separate offense and the student completes the period of incarceration with time left in the expulsion period;

c. such conviction or incarceration may be sufficient cause for a superintendent to refuse admission of the student to a school except upon review and approval of a majority of the elected members of the local school board;

4. any student found guilty of being in possession of a firearm on school property or on a school bus or at a school sponsored event shall be expelled from school according to the requirements of R.S. 17:416(C)(2);

5. a student in grades six and above who is found guilty of being in possession of any illegal narcotic, drug, or other controlled substance on school property, on a school bus, or at a school event shall be expelled from school according to the requirements of R.S. 17:416(C)(2). The school principal or designee shall, within five days of arrest, refer such student for testing or screening by a qualified medical professional for evidence of abuse of alcohol, illegal narcotics, drugs, or other controlled dangerous substances. If evidence of abuse is found, the principal or designee shall refer the student to an alcohol and drug abuse treatment professional chosen by the student's parent or legal guardian.

6. any student older than eleven and in grades six and above, carrying or possessing a knife the blade of which equals or exceeds two and one-half inches in length.

B. School officials shall have total discretion and shall exercise such discretion to impose disciplinary actions authorized by this Section for possession by a student of a

firearm or knife on school property when such firearm or knife is stored in a motor vehicle and there is no evidence of student intent to use the firearm or knife in a criminal manner.

C. Expulsion is not mandatory for a student carrying or possessing a firearm or knife for purposes of involvement in a school class or course or school-approved co-curricular or extracurricular activity or any other activity approved by the appropriate school officials or for a student possessing any controlled dangerous substance governed by the uniform controlled dangerous substances law that has been obtained directly or pursuant to a valid prescription or order from a licensed medical provider. However, ~~such~~ the student shall carry evidence of the prescription or medical provider order on his person at all times when in possession of any controlled dangerous substance which shall be subject to verification. Evidence of the prescription or medical provider's order includes possession of the controlled dangerous substance in the original packaging as received from the pharmacy.

D. Mandatory recommendation for expulsion shall not be applied to virtual instruction received by a student in the student home.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:608 (April 2008), LR 39:2211 (August 2013), LR 43:2483 (December 2017), LR 48:

§4315. Guidelines for Expulsions

A. No student who has been expelled from any public or nonpublic school outside the state of Louisiana or any nonpublic school within Louisiana for committing any offenses enumerated in R.S. 17:416 shall be admitted to:

1. a public school in the state except upon the review and approval by the governing body of the admitting school; or

2. to a regular public school in the LEA from which the student was expelled prior to the completion of the specified period of expulsion at the school system's alternative education setting.

B. Any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana for one of the reasons listed below shall produce documentation that he or she and his/her parent or legal guardian have enrolled in and participated in an appropriate rehabilitation or counseling program related to the reason(s) for the expulsion prior to being admitted or readmitted on a probationary basis to any public school in the state, unless such requirement is waived by the LEA:

1. possessing on school property or on a school bus a firearm, knife, or other dangerous weapon, or instrumentality customarily used or intended for probable use as a dangerous weapon; or

2. possessing with intent to distribute, or distributing, selling, giving, or loaning while on school property or on a school bus any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law.

C. Any student who has been expelled from any public or nonpublic school within or outside the state of Louisiana shall provide to any public school or school system in the state to which the student is seeking admission, information on the dates of any expulsion and the reason(s) for which the

student was expelled. Additionally, the transfer of a student's records by any public school or school system in the state to any other public or nonpublic school or school system shall include information on the dates of any suspensions or expulsions and the reason or reason(s) for which the student was suspended or expelled. Refer to R.S. 17:416(B)(3).

D. A student expelled from school pursuant to the provisions of R.S. 17:416 may be readmitted on a probationary basis to school at any time during the specified period of expulsion on such terms and conditions as may be stipulated by the city, parish, or other local school board and agreed to in writing by the student and by the student's parent or other person responsible for the student's school attendance. However, any such written agreement shall include a provision that upon the school principal or superintendent of schools determination that the student has violated any term or condition of the agreement, the student shall be immediately removed from the school premises without the benefit of any hearing or other procedure applicable to student out-of-school suspensions and expulsions and returned to the school system alternative school setting. As soon thereafter as possible, the principal or designee shall provide verbal notice to the superintendent of schools of any such determination and also shall attempt to provide such verbal notice to the student's parent or other person responsible for the student's school attendance. The principal or his designee also shall provide written notice of the determination and the reasons therefore to the superintendent and to the student's parent or other responsible person.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 34:608 (April 2008), LR 35:1098 (June 2009), LR 48:

§4317. Due Process for Expulsions

A. A recommendation for expulsion is made by the principal or, in the case of a student found carrying or possessing a firearm or another dangerous instrumentality other than a knife, or who possesses, distributes, sells, gives, or loans any controlled dangerous substance governed by the Uniform Controlled Dangerous Substances Law, in any form, by the principal's designee.

B. A hearing is conducted by the superintendent of the charter school or someone designated by the superintendent within fifteen school days. The school board must provide written notice of the hearing to the student and the parent or legal custodian, and such notice shall advise the student and parent or legal custodian of due process rights.

C. A determination of whether to expel the student is made by the superintendent or his designee.

D. The principal and teacher as well as the student may be represented by someone of their choice at this hearing.

E. Until the hearing takes place, the student shall remain on suspension with access to classwork and the opportunity to earn academic credit.

F. The parent or guardian of the student may, within five days after the decision to expel the student has been rendered, request the local educational governing authority to review the findings of the superintendent or his designee. Otherwise, the decision of the superintendent shall be final. A student's agreement to cooperate in recommended treatment determined as necessary by a medical professional

may be certified in writing by the medical professional and used to initiate reopening the student case. The school board shall take into consideration the student agreement to receive treatment as a positive factor in the final decision applicable to any final disciplinary action.

G. The board, in reviewing the case, may affirm, modify, or reverse the action previously taken.

H. If the board upholds the decision of the superintendent, the parent or guardian of the student may, within 10 days, appeal to the district court for the parish in which the student's school is located. The court may reverse the ruling of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S.17:416.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), LR 48:

§4319. Discipline for Students with Disabilities

A. If a school district removes a student with a disability from the student's current educational placement for 10 school days in a school year, consecutively or cumulatively, regardless of the circumstances, beginning on the eleventh day, students must continue to receive educational services to enable the student to continue participating in the general education curriculum, to progress toward meeting the goals set out in the IEP, and to receive behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

NOTE: Refer to Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act.

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

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1284 (June 2005), amended LR 39:2212 (August 2013), LR 48:

§4321. Corporal Punishment

A. A charter school shall have discretion with respect to the use of corporal punishment; however, no form of corporal punishment shall be administered to a student with an exceptionality, excluding gifted and talented, as defined in R.S. 17:1942, or to a student who has been determined to be eligible for services under section 504 of the Rehabilitation Act of 1973 and has an individual accommodation plan.

B. *Corporal Punishment*—using physical force to discipline a student, with or without an object, and includes hitting, paddling, striking, spanking, slapping, or any other physical force that causes pain or physical discomfort.

C. Corporal punishment does not include:

1. the use of reasonable and necessary physical restraint of a student to protect the student or others, from bodily harm or to obtain possession of a weapon or other dangerous object from a student; or

2. the use of seclusion and restraint as provided in R.S. 17:416.21.

D. Should a charter school permit corporal punishment, the school shall adopt such rules and regulations necessary to implement and control such punishment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:416.1, R.S. R.S. 17:3981, and 17:3996(B)(2).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 43:2479 (December 2017), LR 48:

§4323. Search and Seizure

A. Any teacher, principal, school security guard, or administrator may search any building, desk, locker, area, or school grounds for evidence that the law, a school rule, or parish or city school board policy has been violated.

B. The teacher, principal, school security guard, or administrator may search the person of a student or his personal effects when, based on the attendant circumstances at the time of the search, there are reasonable grounds to suspect that the search will reveal evidence that the student has violated the law, a school rule, or a school board policy. Such a search shall be conducted in a manner that is reasonably related to the purpose of the search and not excessively intrusive in light of the age or sex of the student and the nature of the suspected offense.

C. Each charter school shall adopt a policy to provide for reasonable search and seizure by teachers, by principals, and by other school administrators of a student's person, desk, locker, or other school areas for evidence that the law, a school rule, or an charter school policy has been violated.

D. Any such policy shall be in accordance with applicable law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:416.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1285 (June 2005), amended LR 39:2212 (August 2013), LR 48:

Family Impact Statement

In accordance with sections 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? Yes.

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, February 9, 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 126—Charter Schools**

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

There may be an increase in local expenditures by charter schools associated with increased workload to implement the proposed revisions that provide for remote registration of children of military personnel, the Purple Star School Award Program, and student discipline. Such impacts are indeterminable. There will also be an increase in required professional development training, as the proposed revisions require four hours of training for new charter school employees with respect to bullying and two hours of training annually thereafter. In addition, charter schools will be required to make provisions in school master plans for improving behavior and discipline to provide pre-service and ongoing grade-appropriate

training for teachers, principals, and other appropriate school personnel.

There may be increased state costs to the Department of Education (LDE) to provide financial rewards to charter schools which are designated "reward schools". The cost of the financial rewards is indeterminable; funding is subject to the availability of funds and LDE determination.

These revisions align policy with legislation of the 2021 Regular Session of the Louisiana Legislature. Act 208 provides for remote public school registration and enrollment of children of military personnel transferring to the state. Act 473 constitutes a comprehensive update to student discipline policy. Senate Concurrent Resolution 15 creates a Purple Star School Award Program, administered through the LDE, to recognize schools that evidence a major commitment to serving students and families connected to the United States Armed Forces.

The revisions designate schools which earn the equivalent of an "A" letter grade on the progress index as "reward schools", which are then eligible for financial rewards from the LDE as funds are available and as determined by the department, unless such schools are labeled "Urgent Intervention Required" for any subgroup.

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

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

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

The proposed revisions will benefit military-connected students and families, as they will be able to register for school by remote means. In addition, "Purple Star Schools" will benefit military-connected students and families by providing additional resources and assistance.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Beth Scioneaux
Deputy Superintendent
2201#052

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel—Personnel Evaluation (LAC 28:CXLVII.30)

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:CXLVII:301 in Bulletin 130 – *Regulations for the Evaluation and Assessment of School Personnel*. The proposed revisions would require, for the 2021-2022 academic year, that school leader student learning targets based on measures other than school performance scores be used for evaluative purposes. These revisions are in response to a waiver of calculation and assignment of school performance scores by the Board at the October 2021 pursuant to the Department of Education receipt of a United States Department of Education waiver of Every Student Succeeds Act Accountability Provisions for the 2020-2021 School Year.