



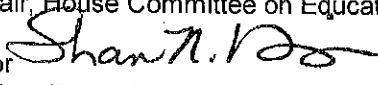
STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

P.O. Box 94064, Capitol Station, Baton Rouge, LA 70804-9064 · PHONE: 225-342-5840 · FAX: 225-342-5843

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 100-102 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

James Garvey
1st BESE District

Kira Orange Jones
2nd BESE District

Sandy Holloway
3rd BESE District

Michael Melerine
4th BESE District

Ashley Ellis
5th BESE District

Ronnie Morris
6th BESE District

Holly Boffy
7th BESE District

Preston Castille
8th BESE District

Belinda Davis
Member-at-Large

Thomas Roque
Member-at-Large

Doris Voitier
Member-at-Large

Shan N. Davis
Executive Director

Cade Brumley
State Superintendent

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.301)

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.

Title 28
EDUCATION

**Part CXLVII. Bulletin 130—Regulations for the
Evaluation and Assessment of School Personnel**

Chapter 3. Personnel Evaluation

§301. Overview of Personnel Evaluation

A. - B. ...

C. For the 2020-2021 academic year only, if a school leader has one learning target based on school performance and one learning target based on alternate measures, then the alternate learning target shall be duplicated for purposes of calculating a final student growth score for the school leader.

D. For the 2020-2021 academic year only, if each learning target of a school leader is based on school performance, then the observation score will comprise the sum total of school leader evaluation score.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, and R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1215 (May 2012), amended LR 38:2359 (September 2012), LR 39:1273 (May 2013), LR 41:1266 (July 2015), LR 43:2480 (December 2017), LR 47:354 (March 2021), LR 48:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word "poverty" means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? No.
3. Will the proposed Rule affect employment and workforce development? No.

4. Will the proposed Rule affect taxes and tax credits? No.

5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Analysis

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, 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 130—Regulations for the
Evaluation and Assessment of School Personnel
Personnel Evaluation**

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

The proposed revisions could impact expenditures of local school districts to the extent school leaders initially rated as Ineffective experience improved performance ratings as a result of the change in scoring methodology; however, this is not anticipated to be material. Based on the 2018-2019 Compass Leader Results, less than one percent of school leaders received an evaluation of Ineffective in all but two of the districts for which data is available. State law prohibits teachers or administrators rated Ineffective from receiving a higher salary in the year following the evaluation. If any school leaders initially rated Ineffective are able to improve their rating to

Effective: Emerging, they would become eligible for salary increases or supplements in the 2021-2022 academic year.

These revisions would amend the process for evaluating school leaders in the absence of 2020-2021 School Performance Scores. If a school leader has one student learning target (SLT) based on school performance and one SLT based on alternate measures, then the alternate SLT will be duplicated to calculate a final student growth score. If all SLTs are based on school performance, then the leader's observation score will comprise the sum of the evaluation score.

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)

If any school leaders initially rated Ineffective are able to improve their rating to Effective: Emerging, they would become eligible for salary increases or supplements in the 2021-22 academic year; however, the number of such school leaders is not expected to be material.

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#053

Alan M. Boxberger
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund (LAC 28:CLXV.103, 701, 703, 705, 707, 709, 901, 902, 903, 1101, 1103, 1105, 1107, 1109)

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:CLXV Bulletin 139 – *Louisiana Child Care and Development Fund*. The proposed revisions allow CCAP-certified family child care providers to apply for academic approval and participate in the unified quality rating system and initiatives.

Title 28

EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

Chapter 1. Child Care Assistance Program

§103. Definitions

Automated Child Care Time and Attendance—an electronic system that provides accurate and timely capturing, tracking, and reporting of time and attendance data. This system may utilize an adult's finger image or IVR interactive voice response (IVR) as a mechanism for capturing this data.

Louisiana Pathways Early Learning Center Career Development System (LA Pathways)—the state practitioner registry maintained by the department or its contractor. LA pathways registers child care facility directors and staff according to requirements based on training and education,

experience, and professional activities, as approved by the department. Categories are established for early learning center staff, early learning center assistant teacher, early learning center teacher, early learning center assistant director and early learning center director.

Quality Start Child Care Rating System—system designed to assess the level of quality of early care and education programs serving birth through age five, communicate the level of quality, and support improvements of child care facilities.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR part 98 and R.S. 17:407.28.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2109 (October 2015), amended LR 42:42 (January 2016), LR 42:1870 (November 2016), LR 43:1279 (July 2017), LR 44:257 (February 2018), effective March 1, 2018, LR 44:800 (April 2018), LR 47:1279 (September 2021), LR 48:

Chapter 7. Administration of School Readiness Tax Credits

§701. General School Readiness Tax Credit Provisions

A. - C. ...

D. For purposes of this chapter and Chapters 9 and 11 of this Bulletin, the term "child care facilities" means any licensed Type III early learning center or registered and CCAP-certified family child care home that has current academic approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education and the Department of Revenue, LR 41:2117 (October 2015), LR 48:

§703. Child Care Facility Expense Tax Credit

A. The Department of Revenue shall make available to qualifying child care facilities a credit certificate to be given to each taxpayer claiming the child care facility expense tax credit. The credit certificate will consist of child care facility portion of the certificate and a taxpayer portion of the certificate.

B. The child care facility shall complete the child care facility portion of the credit certificate and shall submit the certificate to each taxpayer who had a child at the child care facility during the calendar year no later than January 31 of the succeeding year. The child care facility portion of the credit certificate will include, but not be limited to, the following information: the child care facility name, the child care facility star rating, the child care facility Louisiana tax identification number, the Louisiana early learning center license number or the certified family child care provider number from the department, the name of the child attending the child care facility, and the issue date and effective year. The child care facility shall submit to the Department of Revenue a list of all taxpayers to whom a certificate was issued.

C. ...

D. The department shall provide information necessary for the secretary of the Department of Revenue to determine the child care facility's quality rating.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(10), R.S. 47:287.785, R.S. 47:295, R.S. 47:1511, and R.S. 47:6103.