STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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February 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 January 20, 2023, Notice of Intent that was promulgated on pages 84-85 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, 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
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

public school governing authority; outline the qualifications and requirements of teachers providing instruction in learning pods; outline the required information that shall be provided to the department for each learning pod information request; and define of a public school governing authority. The proposed rule revisions to LAC 28: CXXXIX in Bulletin 126—*Charter Schools* provide for the manner in which charter schools may establish learning pods pursuant to R.S. 17:4036.1 and LAC 28:CXV.

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

The proposed rule revisions will not have a determinable effect on revenue collections of state or local governmental units. Charter schools may be able to attract greater student enrollment due to the ability to provide unique or more conveniently located programs through the creation of learning pods. This may result in an increase in the amount of student funding directed to the charter school through the Minimum Foundation Program and a decrease in the amount of student funding directed to the traditional public school that the student would otherwise attend. Charter schools may not charge tuition or attendance fees pursuant to R.S. 17:3991(E)(3). The number of additional students and the resultant increase or decrease in minimum foundation program funds directed to a school are indeterminable.

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

The proposed rule revisions may benefit students and parents due to the ability to provide unique or more conveniently located programs through the creation of learning pods.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule revisions will not have an effect on competition and employment. The teachers in a learning pod must be on the staff of the school for which the learning pod is an extension.

Beth Scioneaux	Alan M. Boxberger
Deputy Superintendent	Interim Legislative Fiscal Officer
2301#070	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Medication Administration Training
(LAC 28:CLXI.1515 and 1725)

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:CLXI in *Bulletin 137—Louisiana Early Learning Center Licensing Regulations*. The proposed revision is in response to legislation enacted by the 2022 Regular Legislative Session and R.S. 17:407.50.2. The revision provides a requirement that centers develop a policy regarding the use of auto-injectable epinephrine, that they share that policy with families of all children at the site, and requires training for administration of auto-injectable epinephrine to a child in an early learning center who is believed to be having an anaphylactic reaction.

Title 28
EDUCATION
Part CLXI. Bulletin 137—Louisiana Early Learning Center Licensing Regulations
Chapter 15. Minimum General Requirements and Standards
§1515. Child Records and Cumulative Files

A. - D. …

E. An early learning center shall provide a written copy of all health-related policies established by the center, including policies regarding accidents, allergic reactions, fever, illness, immunizations, infection, and injuries, to the parent or guardian of each child attending or enrolled in the early learning center.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:407.40.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:630 (April 2015), effective July 1, 2015, amended LR 41:2106 (October 2015), LR 44:250 (February 2018), effective March 1, 2018, LR 47:1276 (September 2021), LR 49:

Chapter 17. Minimum Staffing Requirements and Standards
§1725. Medication Management Training

A. All staff members who administer medication shall have medication administration training that includes auto-injectable epinephrine.

B. …

C. Training for auto-injectable epinephrine shall be completed every two years with an approved child care health consultant, registered nurse, licensed medical physician, a child care health consultant, an anaphylaxis training organization, or any other entity approved by the Louisiana Department of Health. Training for medication administration shall be completed every two years with an approved child care health consultant.

D. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 and 17:407.40(A)(1).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:636 (April 2015), effective July 1, 2015, amended LR 44:251 (February 2018), effective March 1, 2018, LR 44:1866 (October 2018), LR 47:1278 (September 2021), 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? 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? Yes.

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

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

3. the overall effect on the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, February 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: Medication Administration Training

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

The proposed rule revisions are in response to Act 335 of the 2022 Regular Legislative Session and R.S. 17:407.50.2. The revisions provide a requirement that early learning centers develop a policy regarding the use of auto-injectable epinephrine, that they share that policy with families of all children at the site, and requires training for administration of auto-injectable epinephrine to a child in an early learning center who is believed to be having an anaphylactic reaction. The proposed rule revisions require all staff members who administer medication complete training that includes auto-injectable epinephrine and that this training be completed every two years. There may be increased costs to local governmental units associated with the required training, but they are expected to be minimal. The cost of creating and communicating a new local policy in relation to the proposed rule revisions is also expected to be minimal.

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

The proposed rule 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 revisions require all staff members who administer medication complete training that includes auto-injectable epinephrine and that this training be completed every two years. There may be increased costs to privately owned early learning centers associated with the required training, but they are expected to be minimal.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

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

Beth Scioneaux	Alan M. Boxberger
Deputy Superintendent	Interim Legislative Fiscal Officer
2301#072	Legislative Fiscal Officer

NOTICE OF INTENT

Board of Elementary and Secondary Education

Teacher Observations (LAC 28:CXLVII.105 and 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 in *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*. The proposed revision extends the 2020-2021 and 2021-2022 observation policy for the 2022-2023