

STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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Executive Director

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State Superintendent

June 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 May 20, 2022, Notice of Intent that was promulgated on pages 1308-1311 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 August 20, 2022, 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: 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

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network—Advisory Councils (LAC 28:CLXVII.1101)

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 establish and align advisory councils across all bulletins, in accordance with authorizing statute R.S. 17:407.51, and in compliance with Louisiana Open Meetings Law and meeting procedures outlined in *Robert's Rules of Order*. The revision, part of an effort to codify all BESE advisory councils in policy, to include processes and procedures, will eliminate the need for bylaws for each individual council and standardizes operational guidelines.

Title 28

EDUCATION

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

Chapter 11. Early Childhood Care and Education Advisory Council

§1101. Early Childhood Care and Education Advisory Council

A. Functions. The function of an advisory council is to advise the board, directly or through its committees, in the discharge of its policymaking, supervisory control, and budgetary duties and responsibilities. Specific functions of the advisory council are determined by the establishing law or policy. The advisory council deals exclusively with matters referred by the board or the LDE. Matters referred to advisory councils require external input regarding funding decisions, policy matters that need to be reviewed for local impact, bulletin revisions containing policies or supervisory controls, and matters particular to a council for which it was created. The LDE staff provides the board with a statewide and nationwide perspective on certain issues, while advisory councils respond from a local or community perspective.

1. The council shall provide input and guidance to the board and the LDE on matters pertaining to the development and implementation of rules, regulations, bulletins, policies, or standards for publicly-funded early care and education programs, including early learning centers, enrollment in early learning centers, the Cecil J. Picard LA4 Early Childhood Program, the Child Care and Development Fund Block Grant, the Child Care Assistance Program, Early Head Start, and Head Start.

2. Prior to board consideration of any rule or standard regarding early learning centers, enrollment in early learning centers, the Cecil J. Picard LA4 Early Childhood Program, the Child Care and Development Fund Block Grant, or the Child Care Assistance Program, the department shall consult with and provide a draft of the proposed rules to the council, and provide an opportunity for the council to make recommendations.

3. Prior to submission to the United States Department of Health and Human Services, LDE shall consult and provide a draft of the state plan for the Child Care and Development Fund and budget, and any amendments to the state plan including budget revisions, and provide an opportunity for the council to make recommendations. Recommendations made by the council shall be submitted to BESE.

4. The council shall produce required quarterly and annual reports.

B. Composition. The council shall consist of no fewer than seventeen voting members as follows:

1. two representatives of Type III early learning centers, selected by the state superintendent of education;

2. one representative of a Type II early learning center, selected by the state superintendent of education.

3. one representative of a Type I early learning center; selected by state superintendent of education;

4. two representatives of Head Start programs, one of which shall be operated by a local education agency and selected by BESE, and one of which shall be operated by a nonlocal education agency and selected by the state superintendent of education from a list of three persons nominated by the Louisiana Head Start Association.

5. two representatives of local education agencies operating publicly funded early childhood programs other than Head Start, selected by BESE;

6. two representatives of Louisiana nonprofit advocacy organizations having a focus on early childhood education, selected by the state superintendent;

7. two representatives of approved nonpublic schools with publicly funded early childhood care and education programs, selected by BESE;

8. one professional or faculty member having child development or early childhood education expertise from a Louisiana post-secondary education institution, selected by the commissioner of higher education;

9. the president of the Louisiana Chapter of the American Academy of Pediatrics, or designee;

10. one representative of an advocacy or service organization that focuses on serving children with disabilities, selected by the state superintendent of education;

11. one representative of a Louisiana business or community organization, selected by BESE;

12. one parent of a child currently enrolled in a publicly-funded early learning center or prekindergarten program, selected by BESE.

C. The council shall include an additional 13 nonvoting ex-officio members, or designee, who may advise and contribute to discussions pertaining to early childhood care and education, including but not limited to the following:

1. the chairpersons of the House Committee on Education, Senate Committee on Education, House Committee on Health and Welfare, and Senate Committee on Health and Welfare;

2. the secretary of the Department of Children and Family Services;

3. the state director of the Louisiana State Head Start Collaboration Project;

4. a representative of the state agency responsible for programs under Section 619 or Part C of the Individuals with Disabilities Education Act (20 25 U.S.C. 1419, 1431 et seq.);

5. the director of the Maternal and Child Health Program at the Department of Health and Hospitals;

6. the director of the Child and Adult Care Food Program at the LDE;

7. the Louisiana State Fire Marshal;

8. a representative from the office of sanitarian services at the Department of Health and Hospitals.

9. a representative from the Louisiana Workforce Commission;

10. a representative from the Louisiana State Police Bureau of Criminal Identification and Information.

D. General Council Membership Information

1. Terms. Members shall serve a term of three years at the pleasure of the appointing authority. Persons appointed by organizations and agencies other than BESE shall be ratified by the board. A council member may be removed without cause by the recommending agency at any time. Appointees must maintain employment and qualifications appropriate to the organizational category being represented. Once a member retires, becomes employed in a different capacity, or otherwise fails to maintain eligibility, the member shall become ineligible to continue to serve and shall be replaced. A current council appointee, whose term has expired, may remain in place until a replacement is recommended or approved by the appointing authority and subsequently ratified by BESE.

2. Vacancies. A vacancy in an appointed position shall occur if an appointee, for any reason, is unable to serve the full extent of the term. Appointments to fill vacancies shall be considered interim appointments. Interim appointments shall be made by the superintendent of education or the BESE president. At the conclusion of a membership term, LDE and BESE shall publish a request for applications and select nominees for the subsequent term from the pool of applicants.

3. Expenses. Council members shall not receive compensation or a per diem for services or attendance at council meetings.

4. Proxy. Any person serving on an advisory council who cannot attend a scheduled meeting may designate a person to attend as proxy, contingent upon consent of the appointing authority, and shall notify the council chair and the LDE council liaison.

5. Quorum. A quorum is a simple majority of the total membership. In the absence of a quorum, the advisory council may take unofficial action, but minutes submitted to the board shall indicate that the recommendations are being presented without the required quorum. When it is known prior to an agenda being posted that a quorum is unlikely, the council chair shall be so notified, and the meeting may be canceled. Proxies cannot be included for the purpose of establishing a quorum.

6. Action/Quorum. Official council action requires that matters submitted to the council by motion are duly seconded. The chair states the motion and calls for discussion and public comment. All official actions of the council shall require the favorable vote of a majority of the members present.

7. Voting. All voting shall be by voice vote, except when taken by roll call vote or when a member requests that his/her vote be recorded in the official record. A roll call vote shall be taken on any motion if requested by the chair. Roll call votes shall be taken alphabetically, except that the presiding officer or chair shall have the option of voting last or may exercise the right to refrain from voting. Proxies do not retain voting privileges.

8. Attendance Policy

a. Appointed members are expected to attend all scheduled meetings of an advisory body. Unless otherwise provided, if a member is unable to attend a meeting, a request for an excused absence should be submitted to the council chair or the LDE council liaison one week prior to the meeting. A proxy may be named by the appointed member to serve for a total of three meetings. A council member shall be removed and his/her seat declared vacant if the member is no longer a legal resident of Louisiana, fails to remain active in or is no longer employed by the organization or agency appointed to represent, or misses more than two meetings, unless excused prior to the meeting by the council chair.

b. The appointing authority for each member shall be notified immediately following each scheduled meeting indicating nonattendance of the appointee. The notification should include:

i. name of the council member and council on which serving;

ii. date of the meeting; and

iii. board policy on attendance.

E. Chair

1. The council shall have one chair and one vice-chair annually elected by the voting members of the council at the first convening meeting of the fiscal year.

2. The chair shall preside at all meetings of the council and perform such duties as may be required by the council. The elected vice-chair shall serve in the absence of the chair and perform other duties as assigned by the chair.

F. Meetings

1. Advisory councils shall meet as scheduled in order to consider referrals from the board or the LDE. Special meetings shall be by call of the board, and emergency meetings may be called at the discretion of the LDE council liaison.

2. Regular meeting dates shall be scheduled one year in advance and shall be determined by the LDE council liaison.

3. Agendas of council meetings shall be distributed to council members by the LDE council liaison at least seven days in advance of a meeting. All council meetings shall be conducted in accordance with the Louisiana open meetings law R.S. 42:11 et seq.

4. In accordance with R.S. 42:19, the agenda may be amended upon unanimous approval of the members present at a meeting and subject to other provisions of the statute.

5. Except where listed herein, the business in advisory councils shall be conducted in accordance with *Robert's Rules of Order*.

6. Motions passed by an advisory council shall be made as a main motion and must be duly seconded. All motions must be voted upon, and roll call votes may be

requested by any of the membership in attendance at a meeting.

7. Requests from advisory councils for data or reports must be made in the form of a motion, requesting that the board direct the LDE or BESE staff to provide such information to the council making the request.

8. The minutes and reports of each advisory council shall be presented to the BESE executive director for referral to the board. Actions taken in response to referrals shall be forwarded to the appropriate committee. A committee, after consideration of the recommendations of the advisory council, shall report recommendations to the board for final action.

9. All meetings of advisory councils shall be considered official functions of the board to assist in the execution of board responsibilities and duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6.1 and R.S. 17:407.51

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, 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, June 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 140—Louisiana Early Childhood Care and Education Network

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

The proposed revisions will not impact costs or savings to state or local governmental units. The proposed revisions codify the Early Childhood Care and Education Advisory Council, an existing advisory group, to facilitate development of standard operating procedures that will promote efficiency and clarity.

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, SMALL BUSINESSES 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 Scioneaux
Deputy Superintendent
2205#014

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 140—Louisiana Early Childhood Care and Education Network—Ready Start Network (LAC 28:CLXVII.309, 310, and 311)

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 update policy language reflecting the existence and purpose of Ready Start Networks, enable Ready Start Networks to become a fully established component of *Bulletin 140* and ensure their existence, beyond that of limited initiative, by solidifying these networks and the associated responsibilities as necessary components of Louisiana's early childhood care and education system.

Title 28
EDUCATION

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

Chapter 3. Early Childhood Care and Education Network

§309. Community Network Lead Agency

A. A community network lead agency is either a state agency, a local public school system, or a non-profit having an educational or social services mission, including but not limited to a nonprofit corporation of a philanthropic or policy nature, a Louisiana public postsecondary institution, or a nonprofit corporation established by the governing authority of a parish or municipality, that is approved by BESE and that:

1. serves as the fiscal agent of the community network;
2. coordinates the duties and responsibilities of the community network; and
3. acts as the liaison between the community network and the department.

B. - G.6.b. ...

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 41:2583 (December 2015), amended LR 48:

§310. Ready Start Network Lead Agency

A. A Ready Start Network lead agency is either a state agency, a local public school system, or a non-profit having

an educational or social services mission, including but not limited to a nonprofit corporation of a philanthropic or policy nature, a Louisiana public postsecondary institution, or a nonprofit corporation established by the governing authority of a parish or municipality, which is approved by BESE and that:

1. carries out the duties and responsibilities of the Ready Start Network;
2. acts as the liaison between the Ready Start Network and the department; and
3. is responsible for coordinating with the fiscal agent.

B. Duties and Responsibilities

1. The Ready Start Network lead agency shall be responsible for:

a. working with designated community network lead agencies in meeting the requirements of §307.B.1. Any such agreements will be memorialized in an MOU;

b. developing a coalition of local stakeholders that shall include representation from the community network and shall seek to include representation from partners such as parents, local government, non-profits, businesses, research and education entities, faith-based organizations, and/or philanthropic entities. A list of coalition members shall be submitted to the department annually;

c. establishing a Ready Start Network advisory council that advises the Ready Start Network lead agency, assists in establishment of by-laws and meeting protocols, and collaborates to develop and maintain a blueprint, which is a strategic document outlining the community network's current state, mission, vision, and goals. A list of the advisory council members and the blueprint shall be submitted to the department annually;

d. creating, maintaining, and updating a funding plan, which is a document that identifies the Ready Start Network's current funding sources and outlines the Ready Start Network's plans for seeking additional funding to support early care and education initiatives implemented at the local level. The funding plan shall be submitted to the department annually.

C. Selection and Approval

1. Ready Start Network lead agencies shall be approved by BESE.

2. The department shall identify potential Ready Start Network lead agencies through a competitive process and submit them to BESE for approval.

3. Applicants for Ready Start Network lead agency shall seek support from publicly-funded programs within its designated community network by obtaining signatures and submitting them to the department in the competitive process.

4. By June 30 of each year, the department shall recommend the identified Ready Start Network lead agencies to BESE for approval.

5. If BESE has not approved a lead agency for a particular Ready Start Network by July 1, that lead agency shall not be considered a Ready Start Network.

6. Ready Start Network lead agencies approved by BESE shall serve for the fiscal year beginning July 1 and ending June 30.

7. Ready Start Network lead agencies adhere to a renewal process with the department every two years.