



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

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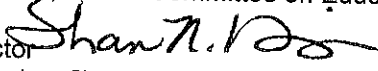
Shan N. Davis
Executive Director

Cade Brumley
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 1297-1300 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

1. completing a certified prescribed burner refresher course every five years, prior to the end of each fifth year following certification; and

2. producing proof of completion of the course to the department, prior to the end of each fifth year following certification.

a. Proof of completion may consist of a certificate of completion or, if no certificate is provided by the course, submission of a signed statement attesting to attendance, including course name, date(s) attended, and provider of the course.

C. Failure to complete a certified prescribed burner refresher course and to provide proof of attendance prior to the end of each fifth year following certification shall result in the revocation of the prescribed burner certification and all program requirements must be repeated in order to regain certification.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:17.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of Forestry, LR 21:670 (July 1995), amended LR 48:

Family Impact Statement

The proposed Rule should not have any known or foreseeable impact on family formation, stability, and autonomy. In particular, the proposed Rule has no known or foreseeable impact on:

1. the stability of the family;
2. the authority and rights of persons regarding the education and supervision of their children;
3. the functioning of the family;
4. family earnings and family budget;
5. the behavior and personal responsibility of children;
6. the ability of the family or a local government to perform the function as contained in the proposed Rule.

Poverty Impact Statement

The proposed Rule should not have any known or foreseeable impact on any child, individual or family as defined by R.S. 49:973(B). In particular, there should be no known or foreseeable effect on:

1. the effect on household income, assets, and financial security;
2. the effect on early childhood development and preschool through postsecondary education development;
3. the effect on employment and workforce development;
4. the effect on taxes and tax credits;
5. the effect on child and dependent care, housing, health care, nutrition, transportation, and utilities assistance.

Small Business Analysis

Pursuant to R.S. 49:965.6, methods for reduction of the impact on small business, as defined in the Regulatory Flexibility Act, have been considered when creating this proposed Rule. This proposed Rule is not anticipated to have an adverse impact on small businesses; therefore, a Small Business Economic Impact Statement has not been prepared.

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, data, opinions and arguments regarding the proposed Rules via U.S. Mail or hand delivery. Written submissions must be directed to Wade Dubea, Assistant Commissioner for Forestry, Department of Agriculture and Forestry, 5825 Florida Blvd., Baton Rouge, LA 70806 and must be received no later than 4 p.m. on June 10, 2022. All written comments must be signed and dated.

Mike Strain, DVM
Commissioner

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Prescribed Burner Certification

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

The proposed rule changes will have no associated costs or savings to the Louisiana Department of Agriculture and Forestry (LDAF) other than the cost of rule promulgation in FY 22, which is normally included in the department's annual operating budget. The Department intends to amend LAC 7:XXXIX.907 and 909 to clarify the requirements for obtaining a prescribed burner certification and for renewing the same. The proposed rule changes will have no associated costs or savings to local governmental units.

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

The proposed rules are not anticipated to have any effect on revenue collections for state or local governmental entities.

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

There are no anticipated additional costs or economic benefits to affected small businesses, or non-governmental groups as a result of the proposed rules.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule changes are not anticipated to impact competition and employment.

Dane Morgan
Assistant Commissioner
2205#039

Evan Brasseaux
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

BESE/8(g) Operations—Advisory Councils
(LAC 28:I.503 and 505)

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:I, BESE/8(g) Operations. The revisions codify the MFP Task Force and provide for the

membership structure and operating procedures of the council. The revisions establish and align advisory councils across all bulletins, 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 I. BESE/8(g) Operations

Subpart 1. Board of Elementary and Secondary Education

Chapter 5. Organization

§503. Advisory Councils

A. ...

B. Composition. Unless otherwise provided by state or federal law, each advisory council of the board is created by board policy. The policy determines the size of the council membership; the number of persons to be appointed by the board; the persons, organizations, affiliations, or interest groups to be represented on a council; and the length of terms.

C. - C.3.ii. ...

D. Officers. Unless otherwise provided by state or federal law or board policy, each advisory council shall select from among its membership in attendance a chair and a vice-chair. Elections shall be held annually at the first meeting in a fiscal year, and the councils shall report election results to the board.

E. Membership

1. Terms. Unless otherwise provided by state or federal law, persons appointed by board members shall serve at the pleasure of their recommending authority. Persons appointed by organizations and agencies other than BESE shall serve terms determined by the appointing authority. A council member may be removed without cause by the board member recommending the appointment, by the board member's successor, or by the recommending agency at any time. Appointees must maintain employment/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. In the event that council appointments are defined by term limits, the 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 the board.

2. Vacancies. A vacancy in an appointed position shall occur if an appointee, for any reason, is unable to serve the full extent of his/her term. Appointments to fill vacancies shall be considered interim appointments.

3. Expenses. Members of advisory councils may be entitled to reimbursement for travel expenses, if specified by statute or not prohibited by board policy, pending availability of funds. Requests for reimbursement for expenses shall be submitted in accordance with the regulations promulgated by the commissioner of administration in the *Louisiana Travel Guide*.

4. Quorum. Unless otherwise provided, a quorum is a majority of the appointed 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 being present. When it is known beforehand that a quorum is unlikely, the council chair shall be so notified and the meeting shall be canceled.

5. Action/Quorum. Official council action requires that any matter be submitted to the council by motion duly seconded. The chair states the motion and calls for discussion, after which the council may act on such matter following repetition of the motion by the chair. All official action of the council shall require the favorable vote of a majority of the total appointed membership (i.e. quorum). Proxies cannot be included for the purpose of establishing a quorum.

6. Proxy. Any person serving on an advisory council who cannot attend a scheduled meeting may designate a person to attend as that member's proxy if the appointing authority does not object. To receive reimbursement for travel and other expenses, a proxy must be properly designated by the active member and recorded in the minutes as being present. If the proxy is representing an advisory council member who is prohibited by board policy from receiving reimbursement for travel expenses, the proxy is likewise prohibited from receiving reimbursement. Proxies do not retain voting privileges.

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 for the record. A roll call vote must 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 in order or not 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 executive director one week prior to the meeting and 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 he/she is no longer a legal resident of Louisiana, fails to remain active in or is no longer employed by the organization or agency he/she was 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.

F. Meetings

1. Each advisory council 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 executive director.

2. Regular meeting dates shall be scheduled one year in advance and shall be determined by the executive director or the executive director's designee.

3. Agendas of council meetings shall be distributed to council members by the board staff at least 7 days in advance of a meeting, calendar permitting. All council meetings shall be conducted in accordance with the Louisiana open meetings law (R.S. 42:11 et seq.). In the event that no items have been referred by the board to an advisory council for consideration, there are no items pending on an advisory council agenda, and the LDE has no items to bring forward to the advisory council at least 10 days prior to a scheduled meeting, the meeting shall be cancelled and the members shall be notified of the cancellation.

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. In all particulars, except for those listed in these rules and procedures, the business in advisory councils shall be conducted according to *Robert's Rules of Order*.

6. Every motion passed by an advisory council, whether or not made as a recommendation, shall be made as a main motion and must be seconded. All motions must be voted on and roll call votes may be requested by any of the membership in attendance at a meeting.

a. Requests from advisory councils for data/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.

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

8. 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(A)(10), 17:6(A)(15), 17:11, 17:24.4, and 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008), amended LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2140 (July 2011), LR 38:772 (March 2012), LR 38:3152 (December 2012), LR 39:3263 (December 2013), LR 42:563 (April 2016), LR 44:744 (April 2018), LR 44:1995 (November 2018), LR 45:1444 (October 2019), LR 48:412 (March 2022); LR 48:

§505. Special Advisory Councils/Task Forces/Commissions/Study Groups

A. Special advisory groups may be created by the board with a limited charge and scope to study a specific topic as referred by the board. Such groups shall adhere to all advisory council officers, membership, and meetings policies, as described for BESE Advisory Councils. The following are created:

1. MFP Task Force. The Task Force will be convened upon, annually and/or as needed, by the BESE chair of the

Administration and Finance Committee and BESE President in order to advise BESE in the development of the MFP formula as it applies to the distribution of funding of public schools.

a. authority—per BESE policy;

b. membership—28 members consisting of the following:

i. six ex-officio representatives as follows: AF committee chair (serves as task force chair), two AF committee members, state superintendent of education, member of the house, member of the senate;

ii. four designated (non-voting) representatives as follows: nonpublic school council representative, Louisiana Association of Special Education Administrators, Teachers Retirement System of Louisiana, Louisiana School Employees' Retirement System;

iii. eleven designated representatives as follows: governor's representative, Louisiana School Boards Association, Associated Professional Educators of Louisiana, Louisiana Association of Educators, Louisiana Federation of Teachers, Council for a Better Louisiana, Louisiana Association of Business and Industry, Public Affairs Research Council of Louisiana, Louisiana Association of School Business Officials, Stand for Children, Early Childhood Advisory Council representative; and

iv. seven BESE appointments as follows: superintendent (large district), superintendent (small district), charter schools representative, principal representative, K12 public school classroom teacher, public school parent.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:6(A)(15), 17:11, 17:24.4, and 42:19.

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: BESE/8(g) Operations

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

The proposed revisions will not impact costs or savings to state or local governmental units. The proposed revisions codify the MFP Task Force, 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#021

Evan Brasseur
Interim Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

BESE/8(g) Operations—Student Transfer Appeals (LAC 28:I.1313 and 1315)

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:I, BESE/8(g) Operations. The revisions codify procedures for compliance with Act 420, R.S. 17:4035.1 of the 2021 Regular Legislative Session. This statute requires each local education agency (LEA) to adopt a policy governing student transfers, post such policy on the LEA website, and to annually report compliance to the LDE Office of School System Relations. Further, this statute requires BESE to consider appeal requests from student transfer request denials. The revisions promulgate rules regarding the process and procedures for submitting an appeal to BESE.

Title 28

EDUCATION

Part I. BESE/8(g) Operations

Subpart 1. Board of Elementary and Secondary Education

Chapter 13. Regulatory Documents

Subchapter C. Student Transfer Appeals

§1313. Local Education Agency (LEA) Student Transfer Appeals

A. In accordance with R.S. 17:4035.1, if an LEA denies the student enrollment request of a prospective student for an intradistrict transfer, the parent or legal custodian of the student may request that BESE review the denied transfer request.

B. Requests for appeal shall be submitted by the parent or legal guardian, by certified, and addressed to:

Board of Elementary and Secondary Education

Attn: Operating Manager

P.O. Box 94064, Capital Station

Baton Rouge, LA 70804

C. A copy of the form to request an appeal can be obtained:

1. from BESE's website;