



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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June 10, 2024

MEMORANDUM

TO: Senator Cameron Henry, Senate President
Representative Phillip DeVillier, Speaker of the House
Senator Rick Edmonds, Chair, Senate Committee on Education
Representative Laurie Schlegel, Chair, House Committee on Education

FROM: Kimberly Tripeaux, Interim 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, 2024, Notice of Intent that was promulgated on pages 709-712 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, 2024, 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.

KT:ell

Attachment (1)

c: Caroline Tyler, Secretary, 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
Kimberly Tripeaux, Interim Executive Director, BESE
Kevin Calbert, Communications Manager, BESE

Kimberly Tripeaux
Interim Executive Director

Dr. Cade Brumley
State Superintendent

3. Will the proposed Rule affect employment and workforce development? Yes.
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 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 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, June 9, 2024, to Kimberly Tripeaux, Interim 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.

Kimberly Tripeaux
Interim Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 746—Louisiana Standards for State Certification of School Personnel—Mentor Teachers

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. The rule change enhances the flexibility provided to educator preparation programs in the identification of high-quality mentors for educator candidates. While obtaining the mentor certification is still the most objective method of certifying a standard level of competency among potential mentor teachers, the proposed waiver provision accounts for geographic and subject-area specifications needed to best support educator candidates. While there has been an increase

in the number of credentialed mentors in Louisiana, stakeholder engagement has revealed a need for continued and ongoing flexibility with resident placement. In the 2023-2024 school year, there are approximately 1,800 more credentialed mentors than the number needed; however, gaps in specific content areas and geographic regions continue to present placement barriers without a waiver provision.

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

There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.

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

There are no anticipated costs or benefits to directly affected persons, small businesses, or nongovernmental groups as a result of the proposed rule change.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed rule change may positively impact employment by supporting geographic flexibility in mentor placement.

Beth Scioeaux
Deputy Superintendent
2405#034

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1903—Louisiana Handbook for Students with Dyslexia—General Provisions (LAC 28:XXXV.Chapter 1)

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:XXXV in *Bulletin 1903—Louisiana Handbook for Students with Dyslexia*. The proposed revisions, developed in response to Act 266 of the 2023 Regular Legislative Session, set forth the following: update terms and definitions; add team member trained in identification of dyslexia during screening, assessment, and intervention planning; identify information and skilled staff to be included when reviewing a student case; clarify refusal to SBLC or pupil appraisal and required parent notification; and outline criteria for multisensory structured language and literacy programs.

**Title 28
EDUCATION**

Part XXXV. Bulletin 1903—Louisiana Handbook for Students with Dyslexia

**Chapter 1. General Provisions
§101. Definitions**

Accommodation—strategies, tools, or adjustments to the educational environment that facilitate equal access to instruction and instructional content for students with disabilities. Accommodations do not alter the rigor, expectations, requirements, or content of the curriculum, learning task, or assessment measures.

Assessment—the act or systematic process of using a wide variety of methods or tools to evaluate, measure, and document the academic readiness, learning progress, skill

acquisition, or educational needs of students in order to improve student learning.

At-Risk—a classification of scores falling within a certain range on a screening measure that indicates a student may have difficulties with grade-level tasks and that additional, targeted instructional support is necessary.

Developmental Auditory Imperception—Repealed.

Dysgraphia—Repealed.

Dyslexia—an unexpected difficulty in reading for an individual who has the intelligence to be a much better reader, most commonly caused by a difficulty in phonological processing, the appreciation of the individual sounds of spoken and written language, which affects the ability of an individual to speak, read, and spell.

Dysphasia—Repealed.

Evaluation—the in-depth process, in accordance with LAC 28:CI, *Bulletin 1508*, used by qualified personnel in the review, examination, and interpretation of intervention efforts, test results, interviews, observations, and other assessment information to gather relevant functional, developmental, and academic information that may assist in determining whether a student has an exceptionality and the nature and extent of the special education and related services.

Expressive Language—the act of conveying information through writing, speaking, or gesturing.

Fluency—reading words at an adequate rate, with high levels of accuracy, rate, and with appropriate expression.

Grapheme—Repealed.

IDEA—Individuals with Disabilities Education Act (Public Law 105-17), also referred to as the special education statute. The federal regulation is designed to provide a free appropriate public education (FAPE) to eligible children with disabilities and ensure special education and related services to those children.

Phonemic Awareness—the ability to hear and manipulate sounds in spoken words and understand that syllables can be divided into a sequence of phonemes, which is one aspect of the larger category of phonological awareness.

Phonics—method of instruction that teaches the systematic relationship between letter and letter combinations in written language and the individual sounds in spoken language and how to use these relationships to read and spell words.

Phonology—the study of the speech sounds of a language and the underlying rules of usage.

Rapid Automatic Naming (RAN)—the ability to rapidly name visually presented stimuli such as colors, objects, numbers, and letters.

Receptive Language—the act of understanding information by listening, reading, or gesturing.

Related Disorders—Repealed.

Screening—a quick procedure designed to identify individuals who demonstrate a greater probability of having a specific condition and may receive supplemental intervention services or be referred for more in-depth assessment.

Semantics—the study of word and phrase meanings.

Syntax—the study of how sentences are formed and of the grammatical rules that govern sentence formation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 17:392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:722 (June 2021), repromulgated LR 47:1287 (September 2021), amended LR 50:

§103. Local Education Agency (LEA) Responsibilities

A. When considering dyslexia, LEAs shall assign school personnel trained in the identification of dyslexia to oversee student screening, assessment, and evaluation for determination of program eligibility.

B. For students with dyslexia, LEAs shall implement an evidence-based multisensory structured language and literacy instructional approach with a program that includes instruction that utilizes all learning pathways in the brain, including visual/auditory and kinesthetic/tactile, simultaneously to enhance memory and learning. Instruction should be explicit, systematic, sequential, cumulative, individualized, and diagnostic and should include automaticity of performance, simultaneous multisensory activities, and synthetic analytic phonics and in accordance with state and federal requirements.

C. No later than December 15 annually, LEAs shall submit a report to the LDOE relative to the occurrence of dyslexia. The report shall include numbers of students of all grade levels:

1. identified as having dyslexia through a Section 504 plan;
2. initially identified as having dyslexia the previous year;
3. identified with an IEP as having a specific learning disability, dyslexia; and
4. total number identified as having dyslexia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 17:392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:723 (June 2021), repromulgated LR 47:1287 (September 2021), LR 49:245 (February 2023), repromulgated LR 49:851 (May 2023), amended LR 50:

§105. School Level Responsibilities

A. School leaders shall select a School Building Level Committee (SBLC) composed of members knowledgeable of student data, assessment processes, and dyslexia to determine if a student is at-risk. SBLC members shall use information from teachers and parents or guardians, screening data, intervention data, performance based tasks, and/or written assignments indicating below grade-level performance deficits in basic reading skills to guide decision making.

B. SBLC members on committees reviewing data for a student who is identified as at-risk for reading difficulty, which includes indicators of dyslexia, shall include, but are not limited to:

1. ...
2. Repealed.
3. a speech-language pathologist, educational diagnostician, dyslexia practitioner, dyslexia therapist, and/or a person trained in the identification of dyslexia;
4. a principal or their designee; and

- 5. the referring teacher;
- 6. a parent or guardian shall be an invited participant in discussions regarding their child's difficulties.

C. ...

D. Professional development shall be provided regarding the identification of dyslexia, state and federal regulations regarding dyslexia, the characteristics of dyslexia, and LEA policies for implementation of the assessment and program process.

E. Educator training shall include information necessary to implement specialized research-based, multi-sensory language instructional interventions and strategies for students with dyslexia.

F. Students identified with skills below grade level shall receive interventions and a reading improvement plan.

G. Screening Results. If screening results indicate that a student is at-risk for dyslexia,

- a. the parent or guardian shall be notified within thirty days of the results of the screening; and

- b. the school shall determine through history, observation, and psychometric assessment if there are unexpected difficulties in reading and associated linguistic problems at the level of phonological processing that are unrelated to the student's intelligence, age, and grade level.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 17:392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:723 (June 2021), repromulgated LR 47:1288 (September 2021), amended LR 50:

§107. School Building Level Committee (SBLC) Responsibilities

A. Request for SBLC review from a parent or educator or at-risk screening data shall initiate the preliminary gathering of data to assist in addressing the educational progress of a student who is consistently struggling or having difficulty attaining expected academic progress, despite receiving instruction in a high quality curriculum with the implementation of additional instructional intervention strategies within the framework of a multi-tiered system of support.

B. - C.4. ...

- 5. referral to pupil appraisal for support services;

- 6. return to regular classroom without further strategies or interventions.

D. The SBLC may repeat the review process should concerns regarding dyslexia or reading difficulties become evident or emerge at a later date.

E. Private evaluation results and documentation submitted by a parent or guardian must be reviewed by the SBLC which shall include at least one member trained in the identification of dyslexia.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 17:392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:723 (June 2021), repromulgated LR 47:1288 (September 2021), amended LR 50:

§109. Screening Requirements

A. In accordance with LAC 28: CXV, *Bulletin 741—Louisiana Handbook for School Administrators*, all students enrolled in kindergarten through third grade shall be administered a universal early literacy screener three times per school year: within the first 30 days of the school year, in December, and in April. Screening results shall be used to

plan instruction and provide appropriate and timely intervention.

B. The early literacy screening instrument shall measure, at minimum, developmentally appropriate skills in:

- 1. phonological awareness,
- 2. phonics,
- 3. decoding,
- 4. fluency, and
- 5. comprehension.

C. - C.2. Repealed.

D. A universal early literacy screener score that indicates deficits, below grade level benchmarks, shall result in additional screening to include:

- 1. Kindergarten and fall semester of first grade students shall be screened in the following areas:

- a. phonological awareness including onset and rime, rhyming and syllable manipulation; and

- b. rapid automatic naming of colors, objects, and/or numbers.

- 2. spring semester of first grade through third grade students shall be screened in the following areas:

- a. phonological/phonemic awareness including blending, onset and rime, rhyming, syllable manipulation, and phoneme segmentation and manipulation;

- b. rapid automatic naming of colors, objects, and/or numbers;

- c. encoding skills using spontaneous spelling;

- d. oral and written language skills; and

- e. letter sound association.

E. Data from screenings should be used to make informed decisions about evidence-based interventions. Progress should be monitored frequently to determine the student's response to the targeted interventions and the rate of improvement. If a student continues to struggle with literacy skills, despite high-quality instruction using a multi-tiered system of supports, the student shall be referred for SBLC review.

F. Screening is not limited to students in kindergarten through third grade and may be administered at any grade level if a student exhibits impediments to a successful school experience or upon request of a teacher, parent, or guardian.

G. - H. ...

I. The IDEA Child Find mandate requires all school districts to proactively identify, locate, and evaluate all students who are suspected of having a disability. If a school system suspects that a student has a disability based on screening data, the LEA is obligated to evaluate the needs of the student. The use of screening measures and/or tiered interventions may not be used to delay or deny the evaluation of a student suspected of having a disability.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:24.9, R.S. 17:392.1 and 17:392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:724 (June 2021), repromulgated LR 47:1288 (September 2021), amended LR 50:

§111. Multisensory Structured Language and Literacy Program Criteria

A. A multisensory structured language and literacy program utilizes all the senses to enhance student memory and learning and shall consist of specific content components to include:

A.1. - D.2. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(11), R.S. 17:392.1 and 392.3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 47:724 (June 2021), repromulgated LR 47:1289 (September 2021), amended LR 50:

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 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 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, June 9, 2024, to Kimberly Tripeaux, Interim 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.

Kimberly Tripeaux
Interim Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 1903—Louisiana Handbook for Students with Dyslexia—General Provisions

- I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)
There are no anticipated implementation costs or savings to state or local governmental units due to the proposed rule change. The rule change, made in response to Act 266 of the 2023 Regular Legislative Session, sets forth revisions regarding updated terms and definitions; adds a team member trained in identification of dyslexia during screening, assessment, and intervention planning; identifies information and skilled staff to be included when reviewing a student case; clarifies referral to a School Building Level Committee or pupil appraisal and required parent notification; and outlines criteria for multisensory structured language and literacy programs.
- II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)
There is no anticipated effect on the revenue collections of state or local governmental units as a result of the proposed rule change.
- III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS, SMALL BUSINESSES, OR NONGOVERNMENTAL GROUPS (Summary)
There are no anticipated costs or benefits to directly affected persons, small businesses, or nongovernmental groups as a result of the proposed rule change.
- IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)
There is no anticipated effect on competition and employment as a result of the proposed rule change.

Beth Scioneaux
Deputy Superintendent
2405#033

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office