



# 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

James Garvey  
1<sup>st</sup> BESE District

March 13, 2023

Kira Orange Jones  
2<sup>nd</sup> BESE District

## MEMORANDUM

Sandy Holloway  
3<sup>rd</sup> BESE District

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

Michael Melerine  
4<sup>th</sup> BESE District

FROM: Shan N. Davis, Executive Director  
Board of Elementary and Secondary Education

Ashley Ellis  
5<sup>th</sup> BESE District

RE: Summary Report on Board of Elementary and Secondary Education Proposed Rulemaking

Ronnie Morris  
6<sup>th</sup> BESE District

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 February 20, 2023, Notice of Intent that was promulgated on pages 355-357 of the *Louisiana Register*.

Holly Boffy  
7<sup>th</sup> BESE District

The Board has received no public comments and has not conducted a hearing pursuant to R.S. 49:953(A)(2)(a).

Preston Castille  
8<sup>th</sup> BESE District

The Board has made no change to the proposed Rule.

Belinda Davis  
Member-at-Large

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 May 20, 2023, issue of the *Louisiana Register*.

Thomas Roque  
Member-at-Large

The following document is attached:

Doris Voitier  
Member-at-Large

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)

Shan N. Davis  
Executive Director

- 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

Cade Brumley  
State Superintendent

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 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 Seioneaux  
Deputy Superintendent  
2302#048

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Officer

#### NOTICE OF INTENT

#### Board of Elementary and Secondary Education

#### School Nurses (LAC 28:CXXXI.715)

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:CXXXI in *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. The aforementioned revisions provide a mechanism by which a registered nurse who holds a current, valid license in good standing with the Louisiana State Board of Nursing is considered certified as a school nurse by BESE. The scope of practice for each type of nurse is governed by the nursing license held.

#### Title 28

#### EDUCATION

#### Part CXXXI. Bulletin 746—Louisiana Standards for State Certification of School Personnel

#### Chapter 7. Ancillary School Service Certificate Subchapter A. General Ancillary School Certificates

#### §715. School Nurse

A. Beginning August 1, 2023, a registered nurse who holds a current, valid license in good standing with the Louisiana State Board of Nursing is considered certified by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6 (A)(10), (11), (15); R.S. 17:7(6); R.S. 17:10; R.S. 17:22(6); R.S. 17:391.1-391.10; and R.S. 17:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:447 (March 2022), repromulgated LR 48:1053 (April 2022), amended 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? 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? 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, March 12, 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: School Nurses

### 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 revisions to LAC 28:CXXXI in *Bulletin 746—Louisiana Standards for State Certification of School Personnel*. The proposed Rule revisions remove the two-year employment history requirement currently in policy and provide a mechanism by which a registered nurse who holds a current, valid license in good standing with the Louisiana State Board of Nursing is considered certified as a school nurse by BESE. The scope of practice for each type of nurse is governed by the nursing license held.

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

There will be an indeterminable decrease in state revenue collections due to the proposed rule revisions. Currently, a registered nurse must apply for certification to the Louisiana Department of Education (LDOE) and pay a \$25 application fee. Under the proposed Rule revisions, nurses will no longer need to provide a separate application and fee to be considered certified as a school nurse. The exact number of school nurse applications received is not available, as the school nurse certificate is grouped with a set of ancillary school services certificates that includes nineteen separate areas, such as occupational therapists, psychologists, social workers, and child nutrition program coordinators.

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

The proposed Rule revisions will result in savings to nurses who must currently pay the \$25 fee to apply for initial certification and to renew certification every three or five years, depending on the level of certification held. School nurses will still complete licensure renewal requirements as dictated by the Louisiana State Board of Nursing.

### IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed Rule revisions will streamline the process by which a registered nurse becomes qualified as a school nurse. Human resources managers will be able to increase the



candidate pools when filling school nurse positions due to removal of the two-year employment history and additional LDOE certification requirements currently in policy.

Beth Scioneaux  
Deputy Superintendent  
2302#050

Alan M. Boxberger  
Interim Legislative Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Regents Office of Student Financial Assistance

#### Scholarship/Grant Programs—Mental Health Exception (LAC 28:IV.2103)

The Board of Regents announces its intention to amend its Scholarship/Grant rules (R.S. 17:3021-3025, R.S. 3041.10-3041.15, R.S. 17:3042.1, R.S. 17:3048.1, R.S. 17:3048.5 and R.S. 17:3048.6).

This rulemaking adds a mental health sub-type to the temporary disability exceptions available to students when they are unable to meet the full time enrollment, continuous enrollment, and/or annual hours requirements for TOPS. (SG23208NI)

### Title 28 EDUCATION

#### Part IV. Student Financial Assistance—Higher Education Scholarship and Grant Programs

#### Chapter 21. Miscellaneous Provisions and Exceptions

#### §2103. Circumstances Warranting Exception to the Initial and Continuous Enrollment Requirements

##### A. - D.3....

##### 4.a. Temporary Disability—Student

i. Definition. The student/recipient is recovering from an accident, injury, illness or required surgery.

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form, the reason for the disability, the necessity of withdrawing, dropping hours, etc., the semester(s) involved, and any other information or documents that may be relevant to student's request; and

(b). a written statement from a qualified professional if a medical disability certifying the existence of a temporary disability, the dates of treatment, and opinions as to the impact of the disability on the student's ability to attend school.

iii. Maximum length of exception—up to two full academic years.

##### b. Temporary Disability—Student/Recipient's Care of Immediate Family Member

i.(a). Definition. The student/recipient is providing continuous care to his/her immediate family member due to an accident, illness, injury or required surgery.

(b). An immediate family member is his/her spouse, dependent, parent, stepparent, custodian, or grandparent.

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form, the reason for the disability, the necessity of withdrawing, dropping hours, etc., the semester(s) involved, and any other information or documents that may be relevant to student's request; and

(b). a written statement from a qualified professional of the existence of a temporary disability of the immediate family member, and the beginning and ending dates of the doctor's care; and

(c). a statement from a family member or a qualified professional confirming the care given by the student.

iii. Maximum length of exception—up to a maximum of two consecutive semesters (three consecutive quarters).

##### c. Temporary Disability—Mental Health

i. Definition. The student/recipient is receiving mental health care services.

ii. Certification Requirements. The student/recipient must submit:

(a). a completed exception request form, the reason for the disability, the necessity of withdrawing, dropping hours, etc., the semester(s) involved, and any other information or documents that may be relevant to student's request; and

(b). a written statement from a qualified professional or from a clergyman certifying the existence of an issue which requires mental health care, the dates of treatment, an opinion as to the impact of the disability on the student's ability to attend school, and a statement of when the disability is/was affecting student's ability to attend school.

iii. Maximum length of exception—up to two full academic years.

##### E. - I.6. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3021-3025, R.S. 17:5001 et seq., and R.S. 17:3050.1-3050.4.

HISTORICAL NOTE: Promulgated by the Student Financial Assistance Commission, Office of Student Financial Assistance, LR 22:338 (May 1996), amended LR 23:1648 (December 1997), repromulgated LR 24:647 (April 1998), amended LR 24:1916 (October 1998), LR 26:1015 (May 2000), LR 26:2002 (September 2000), LR 27:36 (January 2001), repromulgated LR 27:1866 (November 2001), amended LR 27:1875 (November 2001), LR 28:46 (January 2002), LR 28:449 (March 2002), LR 28:775 (April 2002), LR 28:2330 and 2333 (November 2002), LR 29:126 (February 2003), LR 29:2373 (November 2003), LR 29:2373 (November 2003), LR 30:785 (April 2004), LR 30:1167 (June 2004), LR 31:1060 (May 2005), LR 33:440 (March 2007), LR 35:1233 (July 2009), LR 38:3160 (December 2012), LR 41:657, 667 (April 2015), amended by the Board of Regents, Office of Student Financial Assistance, LR 44:562 (March 2018), LR 45:1173 (September 2019), amended LR 47:862 (July 2021), LR 47:867 (July 2021), amended LR 47:871 (July 2021), LR 49:

#### Family Impact Statement

The proposed Rule has no known impact on family formation, stability, or autonomy, as described in R.S. 49:972.

#### Poverty Impact Statement

The proposed rulemaking will have no impact on poverty as described in R.S. 49:973.