



# 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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State Superintendent

May 11, 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 April 20, 2024, Notice of Intent that was promulgated on pages 568-571 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 July 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

### 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 All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.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, May 10, 2024, 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: Immunization Exemption Communication

- 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. R.S. 17:170 sets forth immunization requirements for students entering or attending schools in addition to the provisions for exemptions. To ensure compliance with this statute, the proposed rule change requires inclusion of information regarding exemptions in any immunization communication provided to students and families. This can be done, at no additional cost, by adding a statement to existing publications or communications.
- 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 governments 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 business, 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  
2404#030

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

## NOTICE OF INTENT

### Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook  
for Nonpublic School Administrators  
Written Policies and Programs  
(LAC 28:LXXIX.119, 909, 1101, 1311, and 1501)

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:LXXIX in *Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators*. The proposed revisions update the following policies and programs to ensure alignment with statute: corporal punishment consent; Purple Star Award Program; meningococcal disease immunization; bullying prevention; and tobacco prohibition at schools.

### Title 28 EDUCATION

Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana  
Handbook for Nonpublic School Administrators  
Chapter 1. Operation and Administration  
§119. Written Policies  
A. - D.5. ...

E. Any school that receives state funds shall have discretion in the use of corporal punishment as follows:

1. The governing authority of each nonpublic school shall adopt such rules and regulations to permit or prohibit any form of corporal punishment in the school(s) under its jurisdiction.

2. Corporal punishment is the use of physical force that causes pain or physical discomfort to discipline a student, with or without an object.

3. No form of corporal punishment shall be administered to a student with an exceptionality, excluding students identified as gifted and talented, as defined in R.S. 17:1942, or to a student who has been determined to be eligible for services under section 504 of the Rehabilitation Act of 1973 and has an individual accommodation plan.

4. Corporal punishment does not include:

a. the use of reasonable and necessary physical restraint of a student to protect the student or others from bodily harm or to obtain possession of a weapon or other dangerous object from a student; nor

b. the use of seclusion as provided in R.S. 17:416.21.

5. The use of any form of corporal punishment is prohibited without prior written parental consent.

6. Such consent applies only to the school year in which it is given.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), (11), and (15), R.S. 17:7(6), R.S. 17:10, R.S. 17:22(6), R.S. 17:391.1-391.10, R.S. 17:416.11, R.S. 44:411, and R.S. 17:437.2.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 29:2343 (November 2003), amended LR 31:3074 (December 2005), LR 38:1008 (April 2012), LR 39:1439 (June 2013), LR 48:1273 (May 2022), LR 49:36 (January 2023), LR 50:

## **Chapter 9. Student Services**

### **§909. Purple Star School Award Program**

A. A nonpublic school shall be labeled a “purple star school” if it has exhibited a major commitment to military-connected students and families, as demonstrated by meeting the following requirements.

1. The school has designated a staff member as a military liaison to serve as the primary point of contact for military-connected students and families.

2. The designated staff member responsibilities shall:

a. identify special considerations needed by military-connected students and families; and

b. develop training to inform teachers and other school personnel of such special considerations.

B. Schools labeled as “purple star schools” shall:

1. maintain a dedicated page on the school website featuring resources for military-connected students and families;

2. maintain a student-led transition program to provide peer support for military-connected students; and

3. adopt a resolution stating a commitment of support for military-connected students and families.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:101, and SCR 15 (2021).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 50:

## **Chapter 11. Health**

### **§1101. Immunization**

A. - F. ...

G. Meningococcal Disease Immunization

1. Students entering sixth grade shall provide evidence of current immunization against meningococcal disease as a condition of entry into the sixth grade at any school in the state.

2. A student who is 11 years old and is entering a grade other than the sixth grade and a student who is 16 years old and is entering a grade other than eleventh grade must provide satisfactory evidence of current immunization against meningococcal disease as a condition of entry into such grade at any school in the state.

3. Meningococcal disease immunization requirements shall not apply to students whose parent or legal guardian have submitted either a signed waiver stating that the student shall not be immunized against meningococcal disease for personal reasons, a written statement from a physician stating that the immunization is contraindicated for medical reasons, or a written explanation indicating the student is unable to comply due to a shortage of available vaccines against meningococcal disease.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 (A)(10), (11), and (15), 17:7(6), 17:10, 17:22(6), 17:391.1-391.10, 44:411, 17:170(D), R.S. 17:170.4, and 17:170(A)(1).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:3078 (December 2005), LR 35:1232 (July 2009), LR 35:2348 (November 2009), LR 39:1443 (June 2013), repromulgated LR 46:1674 (December 2020), LR 50:

## **Chapter 13. Preventive Programs**

### **§1311. Bullying**

A. Policy. Each nonpublic school shall develop and adopt a policy that prohibits the bullying of a student by another student in accordance with R.S. 17:416.14.

1. The bullying policy shall be implemented in a manner that is ongoing throughout the year and integrated with a school’s curriculum, a school’s discipline policies, and other violence prevention efforts.

2. The policy shall contain the definition of bullying found in this Section and shall address the following:

a. process for reporting and appeals;

b. procedures for investigating reports of bullying; and

c. the disciplinary and criminal consequences of bullying another student.

B. Training for School Personnel. Each school shall create a program to provide for all school employees, including bus drivers, who have contact with students. The training shall be four hours for new employees and two hours annually thereafter and shall specifically include the following:

B.1. - C.3. ...

D. - G.3.c. Repealed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:416.13.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 49:246 (February 2023), LR 50:

## Chapter 15. Building Operation and Maintenance

### §1501. Building and Maintenance

A. - B. ...

C. Use of any tobacco or tobacco product, including but not limited to smoked or smokeless products and electronic devices, in any school building, on any school property, or on any school bus or school vehicle used to transport students is prohibited. The prohibition is applicable to all school employees, students, and visitors. This prohibition shall not be applicable to any tobacco cessation product approved by the U.S. Food and Drug Administration.

**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; R.S. 17:411, R.S. 17:240.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 29:2348 (November 2003), amended LR 31:3079 (December 2005), 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, May 10, 2024, 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 741(Nonpublic)—Louisiana Handbook for Nonpublic School Administrators Written Policies and Programs

- 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 proposed rule change updates the following policies and programs to ensure alignment with statute: corporal punishment consent; Purple Star Award Program; meningococcal disease immunization; bullying prevention; and tobacco prohibition at schools.
- 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 business, 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  
2404#033

Patrice Thomas  
Deputy Fiscal Officer  
Legislative Fiscal Office

**NOTICE OF INTENT**

**Department of Environmental Quality  
Office of the Secretary  
Legal Affairs and Criminal Investigations Division**

**Emission Standard for Asbestos  
(LAC 33:III.5151)(AQ396)**

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.5151 (AQ396).

LAC 33:III.5151 regulates the owners and/or operators of demolition or renovation activities that disturb asbestos at or above stated thresholds, including the removal of regulated asbestos-containing materials (RACM) or the renovation or demolition of asbestos-containing materials. Residential exemptions are not currently addressed in LAC 33:III.5151. In order to address this oversight, we propose the following changes to clarify that isolated individual residences that are demolished are exempt from the requirements in LAC 33:III.5151. The basis and rationale for the proposed rule are to clarify when isolated individual residences that are demolished by an individual or local governmental unit are exempt from the provisions of LAC 33:III.5151. This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:963.B(3); therefore, no report regarding environmental/health benefits and social/economic costs is required.

**Title 33  
ENVIRONMENTAL QUALITY  
Part III. Air**

**Chapter 51. Comprehensive Toxic Air Pollutant  
Emission Control Program**

**Subchapter M. Asbestos**

**§5151. Emission Standard for Asbestos**

**A. - F.I.f. ...**

**g. Residential Exemptions**

i. The demolition or renovation of any residential building with four or fewer dwelling units is exempt from the requirements of this Subsection as follows.

(a). A demolition or renovation of a residential building with four or fewer dwelling units by any person, for any reason, if the residential building is not an installation or part of an installation, as defined in Subsection B of this Section, and the activity is not part of a planned commercial or public project, and is not intentionally burned. Any structure, installation, or building that was previously subject

to this Subchapter is not excluded, regardless of its current use or function.

(i). The demolition or renovation of any residential building with four or fewer dwelling units that is part of a planned commercial or public project, or is considered an installation or part of an installation, as defined in Subsection B of this Section, is subject to the requirements of this Subsection.

(b). For purposes of this Section, the demolition or renovation of a residential building with four or fewer dwelling units that has been declared a safety hazard or public nuisance by local government is not considered a planned public project if it is not part of a larger planned project, i.e., is not included in the development of new commercial, public, or community facilities or roads. In this case, the residential building is not considered an installation and the activity is exempt from the requirements of this Subsection.

**h. - l. ...**

m. All demolition and renovation activities shall take all precautions to prevent particulates from becoming airborne, i.e., using water to control the dust particles, as required by LAC 33:III.1305.A.

n. Circumvention. No owner or operator of a renovation, demolition, or asbestos-contaminated debris activity (ACDA) shall cause or permit a planned project to be subdivided to circumvent the requirements applicable to a renovation, demolition, installation, or ACDA, i.e., awarding to multiple contractors, or awarding work to the same contractor under multiple scopes of work.

**F.2. - P.2. ...**

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 30:2054.

**HISTORICAL NOTE:** Promulgated by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 17:1204 (December 1991), repealed and repromulgated LR 18:1121 (October 1992), amended LR 20:1277 (November 1994), LR 24:27 (January 1998), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2462 (November 2000), LR 30:1673 (August 2004), amended by the Office of Environmental Assessment, LR 30:2022 (September 2004), LR 31:1570 (July 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2449 (October 2005), LR 33:2095 (October 2007), LR 34:1893 (September 2008), amended by the Office of the Secretary, Legal Division, LR 38:2745 (November 2012), LR 40:519 (March 2014), amended by the Office of the Secretary, Legal Affairs Division, LR 50:

**Family Impact Statement**

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

**Poverty Impact Statement**

This Rule has no known impact on poverty as described in R.S. 49:973.

**Small Business Analysis**

This Rule has no known adverse impact on small business as described in R.S. 49:974.1 - 974.8.

**Provider Impact Statement**

This Rule has no known impact on providers as described in HCR 170 of 2014.

**Public Comments**

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting