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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November 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 October 20, 2022, Notice of Intent that was promulgated on pages 2647-2648 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 January 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

Shan N. Davis
Executive Director

Cade Brumley
State Superintendent

admitted upon a satisfactory personal interview with the program admissions officer.

The number of applicants who will be barred from entry to alternative teacher preparation programs due to the proposed revisions is indeterminable; however, data obtained by the Department of Education indicate that from 2019 to 2021, 715 applicants for alternative teacher preparation programs were admitted through the personal interview process. Under the proposed revisions, some of these applicants may have been permanently barred from entry into the programs.

Beth Scioneaux
Deputy Superintendent
2210#043

Alan M. Boxberger
Interim Legislative Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities—Alternate Assessment Participation Criteria (LAC 28:XCVII.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:XCVII in *Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities*. The proposed revisions add K-2 alternate assessment eligibility criteria pursuant to the federal Every Student Succeeds Act, which requires that alternate assessments are provided for students with significant cognitive disabilities, and that state education agencies must provide eligibility criteria for any statewide alternate assessments.

Title 28
EDUCATION
Part XCVII. Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities
Chapter 5. Participation in Statewide Assessments
§505. Alternate Assessment Participation Criteria

A. Grade 3-11 Alternate Assessment includes LEAP Connect and ELPT Connect. To be eligible to participate in the alternate assessment, the IEP team must verify the student in grades 3-11 meets the criteria listed in this subsection.

1. - 4.e. …

f. student's disability according to Bulletin 1508, unless the disability excludes the student from having a significant cognitive disability including emotional disturbance, significant learning disability (SLD), or speech/language impairment;

4.g. - k. …

B. K-2 Alternate Assessment Eligibility. Participation in the K-2 Alternate Assessment, including ELPT Connect, requires that students participate in annual screeners. The IEP team must annually determine eligibility, using qualitative and quantitative data, where available. The K-2 Alternate Assessment Participation Decision-Making Tool will identify student eligibility to participate in an alternate assessment if:

1. the student has a significant cognitive disability or multiple disabilities that significantly impact cognitive and adaptive functioning:

a. if the current evaluation of the student has a full-scale cognitive score, the existing cognitive score indicates cognitive functioning three or more standard deviations below the mean;

b. the K-2 Alternate Assessment Participation Decision-Making Tool column four indicates adaptive skill deficits in all three domains of conceptual, social, and practical that are characteristic of a most significant cognitive disability:

i. conceptual domain. Student requires significantly modified curriculum and instructions, is unable to clearly express wants and needs, experiences significant delays in receptive skills, and needs maximum assistance to communicate;

ii. social domain. Student often uses behaviors to communicate, may be nonverbal, may have limited communication skills in terms of vocabulary, and may use symbolic communication;

iii. practical domain. Student requires significant support and direct instruction across all activities of daily living and personal and health needs and is likely dependent upon others for these needs;

2. the student IEP goals and instruction are linked to Louisiana state content standards supported by the Connector Standards;

3. the student requires extensive, repeated, direct, individualized instruction and substantial support to achieve measurable gains in the grade level and age-appropriate curriculum:

a. supports are not temporary or transient in nature;

b. substantially adapted materials and individualized methods of accessing information in alternative ways are required;

4. LAC 28:XCVII.505.A.4 shall also apply to alternate assessment eligibility decisions for K-2 students.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 35:2343 (November 2009), amended LR 37:886 (March 2011), LR 41:535 (March 2015), LR 45:527 (April 2019), LR 45:1463 (October 2019), 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? 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, November 9, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES
RULE TITLE: Bulletin 1530—Louisiana's IEP Handbook for Students with Exceptionalities Alternate Assessment Participation Criteria

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

The proposed revisions will not have an effect on costs or savings to state governmental units. The Louisiana Department of Education (LDE) has already developed a tool to determine eligibility to participate in alternate assessments.

There may be additional workload for Individual Education Program (IEP) teams to administer the alternate assessment eligibility tool; however, this workload is likely to be minimal.

The proposed revisions add K-2 alternate assessment eligibility criteria pursuant to the federal Elementary Student Succeeds Act (ESSA) which requires that alternate assessments are provided for students with significant cognitive disabilities, and that state education agencies must provide eligibility criteria for any statewide alternate assessments.

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	Alan M. Boxberger
Deputy Superintendent	Interim Legislative Fiscal Officer
2210#044	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Innovative Assessment Program
(LAC 28:XI.301, 307, 601, 709, 3901, 3903, 4001, 5107, 5701, 6401, 6403, and 6405)

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:XI.301, 307, 601, 709, 3901, 3903, and 4001 in *Bulletin 111—The Louisiana School, District, and State Accountability System* and LAC 28:XI.5107, 5701, 6401, 6403, and 6405 in *Bulletin 118—Statewide Assessment Standards and Practices.* The proposed revisions update policy related to the Innovative Assessment Program, which provides an alternative approach to measuring how well students know and understand the Louisiana English Language Arts content standards. Revisions also add the new English Language Proficiency Test (ELPT) Connect, an alternate assessment created for English learners with significant cognitive disabilities.