STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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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 2635-2637 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

The proposed revisions align policy with Louisiana Revised Statute 17:1948, created by Act 456 of the 2021 Regular Legislative Session and amended by Act 588 of the 2022 Regular Legislative Session. The proposed revisions amend policy contained in Bulletin 741—*Louisiana Handbook for School Administrators*, to establish §332. Installation and Operation of Cameras in Certain Special Education Settings, regarding the adoption of policies for the installation of cameras in certain special education classrooms.

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. Local education agencies (LEAs) have already been allocated $8 M by Act 199 of the Regular Legislative Session to cover the purchase and installation of the cameras. The amount of the allocation for each local system was determined through analysis of the most recent school year data (2021-2022) to determine the number of classrooms in which each LEA may be asked to install a camera. Each LEA was allocated $3,808 per special education classroom.

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

The proposed revisions will not result in additional costs 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#037	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Student Transfer Requests
(LAC 28:CXV.3501)

In accordance with R.S. 49:950 et seq., the Administrative Procedure Act, notice is hereby given that the Board of Elementary and Secondary Education has approved for advertisement amendments to LAC 28:CXV, *Bulletin 741—Louisiana Handbook for School Administrators* to establish §3501. Student Transfer Requests, in accordance with legislation enacted during the Louisiana 2021 Regular Legislative Session. The proposed revisions provide for student transfer requests from schools that received a school performance letter grade of "D" or "F" for the most recent school year and align with the processes described in LAC 28:I.1313 and 1315 regarding student transfer appeals as well as with Louisiana Revised Statute 17.4035.1.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 35. Public School Enrollment Choice
§3501. Student Transfer Requests

A. The parent or legal custodian of a student may enroll the child in a Louisiana public school, without regard to residence, school system, geographic boundaries, or attendance zones, contingent upon the following:

1. the public school in which the student was most recently enrolled, or would otherwise attend, received a school performance letter grade of "D" or "F" for the most recent school year in which school letter grades were produced, pursuant to Part XI., Subpart 1;

2. the public school in which the student seeks to enroll received a school performance letter grade of "A", "B", or "C" for the most recent school year in which school letter grades were produced, pursuant to the school and district accountability system, pursuant to Part XI., Subpart 1;

3. the public school in which the student seeks to enroll has sufficient capacity at the appropriate grade level; and

4. the enrollment of the student in the public school of choice does not violate an order of a court of competent jurisdiction.

B. If an LEA denies the enrollment request of a prospective student for an intradistrict transfer pursuant to Subsection A of this Section, the parent or legal custodian of the student may request that the state board review the denied transfer request.

1. Requests for review may be submitted to the state board annually by May 15 using the designated form.

2. At the June meeting of the state board, or within ninety days of receipt of a request for review, the state board shall determine if the capacity policy established for the school was followed.

3. If the state board determines that the school and/or district policy was not followed, the LEA shall reconsider the transfer request.

4. The state board shall not approve any transfer request that would exceed the enrollment capacity of a school or classroom, as established by the school governing authority.

C. LEA Responsibilities

1. The governing authority of each public elementary and secondary school shall ensure compliance with the provisions of this Section and shall adopt a policy to govern student transfers authorized by this Section. Such policies shall include:

a. a definition of "capacity" for each school;

b. the transfer request period, which shall begin no later than March first and end no earlier than March twenty-eighth, annually;

c. such policies shall be posted annually to the school governing authority website no later than January 1, and reported to the state Department of Education no later than January 30.

2. Prior to the transfer request period, the public school governing authority shall notify parents and legal guardians of students enrolled in a school that received a "D" or "F" school performance letter grade pursuant to the state school and district accountability system for the most recent school year of the following:

a. any schools under the jurisdiction of the governing authority that received an "A", "B", or "C" school performance letter grade;

b. the process for submitting student transfer requests; and

c. the page on the LDE website that contains school performance data.

D. A student transfer pursuant to the provisions of this Section shall comply with the policy adopted by the governing authority of the school in which the student seeks to enroll.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:4035.1.

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, 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 741—Louisiana Handbook for School Administrators Student Transfer Requests

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

There may be increased state costs to the Board of Elementary and Secondary Education (BESE) for increased workload to process appeals and to the Department of Education (LDE) for data collection and reporting; however, any increased costs are unlikely to be significant and will depend on the number of parents appealing a transfer denial.

In response to Act 420 (House Bill 211) of the 2021 Regular Legislative Session, BESE anticipated the potential need to add one position to process appeals for an estimated cost of $75,000 (including $49,400 salary and $25,600 related benefits). In addition, BESE reported that it would require $2,450 in operating expenses and $435 in professional services annually to conduct an additional special meeting to process the appeals, for a total cost of $77,900 per year. However, BESE now anticipates it will be able to incorporate the increased workload with existing staff and resources, and transfer appeals will be reviewed at the Board's June meeting if possible. BESE reports that it received no transfer requests during the 2021-2022 school year.

The proposed revisions may result in additional transportation costs to school districts who provide transportation to students who live within the geographical boundaries of the district but outside of regular transportation routes established by the district. District-level personnel may experience increased workload from processing paperwork associated with school transfer requests and communication of transfer eligibility. These costs are indeterminable.

The proposed revisions establish §3501. Student Transfer Requests, within Bulletin 741—*Louisiana Handbook for School*

Administrators, in accordance with Act 420 (House Bill 211) enacted during the Louisiana 2021 Regular Legislative Session. The proposed revisions provide for student transfer requests from schools that received a school performance letter grade of "D" or "F" for the most recent school year and align with the processes described in LAC 28:I.1313 and 1315 regarding student transfer appeals as well as with Louisiana Revised Statute 17.4035.1.

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

The proposed revisions may have an effect on the amount of Minimum Foundation Program funding received by a school district due to inter-district transfers. This impact is indeterminable.

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 may have an impact on employment if enough students transfer to or from a school or district to warrant a change in the number of personnel retained by the school or district. However, this is indeterminable.

Beth Scioneaux	Alan M. Boxberger
Deputy Superintendent	Interim Legislative Fiscal Officer
2210#038	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators (LAC 28:LXXIX.119, 901, and 907)

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 aforementioned revisions align policy with Louisiana Revised Statutes 17:151.3, 17:154.1, and 17:232 to clarify expectations regarding both in person and remote attendance and to establish expectations and definitions for remote instruction. Further, revisions require each nonpublic school or system to develop a written continuous learning plan for modified operations during school closures.

Title 28
EDUCATION
Part LXXIX. Bulletin 741 (Nonpublic)—Louisiana Handbook for Nonpublic School Administrators

§119. Written Policies

A. - C.4. …

D. Each nonpublic school or system shall have a written continuous learning plan for modified operations during school closures, reviewed by stakeholders and disseminated through typical school policy communication structures no later than June 30, 2023, and annually updated no later than June 30, including but not limited to:

a. technology and connectivity;

b. student and staff responsibilities;

c. attendance;

d. family strategic communication, engagement, and support; and

e. instructional quality.

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. 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 48:

Chapter 9. Student Services

§901. Attendance

A. …

1. Beginning with the 2022-2023 school year, students who have attained the age of five years by September thirtieth of the calendar year in which the school year begins shall attend a public or nonpublic day school or participate in an approved home study program until they reach the age of 18 years.

B. A student is considered to be in attendance when he or she is physically present at a school site or is participating in an authorized school activity and is under the supervision of authorized personnel.

1. Attendance shall be checked and recorded for each student on each school day and at the beginning of each class period in accordance with R.S. 17:232.B.(1).

B.2. - E. …

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, and 44:411.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 29:2347 (November 2003), amended LR 31:3078 (December 2005), LR 39:1442 (June 2013), LR 45:1055 (August 2019), LR 48:

§907. Remote Instruction

A. Remote instruction. An educational model in which the student and educator are not physically present in a traditional classroom environment where instruction may be facilitated by the use of computers, technology, and the internet.

B. Hybrid Instruction. Instruction provided via a combination of face-to-face and remote models.

C. Attendance. Students are considered to be in attendance during remote or hybrid instruction when attendance is checked and recorded on each school day and at the beginning of each class period in accordance with R.S. 17:232.B.(1) and when at least one of the following requirements is met.

1. The student logs into synchronous online instruction at the designated time for the course in which the student is enrolled. Specific login requirements and instructional expectations according to grade level are determined by the LEA.

2. Evidence exists that the student accessed a planned asynchronous instructional activity. Acceptable evidence of student participation in asynchronous activities is to be outlined by the LEA.

D. Remote attendance policy extends to students enrolled in a course for which instruction usually occurs in person at