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 2631-2633 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

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Attendance
(LAC 28:CXV.333, 337, 1103, and 1104)

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:CXV in Bulletin 741—*Louisiana Handbook for 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 school governing authority to develop a written continuous learning plan for modified operations during school closures.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators

Chapter 3. Operation and Administration

§333. Instructional Time

A. - C. …

D. The first Tuesday after the first Monday in November in even-numbered years shall be a legal holiday for public schools in any parish for which a polling place is established at a public school.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:154.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 39:2197 (August 2013), LR 44:263 (February 2018), LR 49:

§337. Written Policies and Procedures

A. - B.14. …

15. the prohibition of teachers from recommending that a student be administered a psychotropic drug and from specifying or identifying any specific mental health diagnosis for a student, in accordance with R.S. 17:436.2;

16. - 32.c. …

d. recognition of the impact of secondary trauma on school employees~~.~~; and

33. a written continuous learning plan for modified operations during school closures, reviewed by stakeholders and posted to the LEA website no later than June 30, 2023, and annually updated by 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, R.S. 17:7(29), R.S. 17:81, R.S. 17:240, R.S. 17:100.8, and R.S.17:437.2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1261 (June 2005), amended LR 33:429 (March 2007), LR 35:1101 (June 2009), LR 36:1224 (June 2010), LR 37:1141 (April 2011), LR 37:1380, 1380 (May 2011), LR 37:2134 (July 2011), LR 38:40, 41 (January 2012), LR 39:2197 (August 2013), LR 40:2530 (December 2014), LR 48:1272 (May 2022), LR 49:

Chapter 11. Student Services

§1103. Compulsory Attendance

A. - C. …

D. 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. 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).

D.1 - N. …

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:112, R.S. 17:221.3-4, R.S. 17:226.1, and R.S. 17:233.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 31:1273 (June 2005), amended LR 32:546 (April 2006), LR 32:1030 (June 2006), LR 33:2351 (November 2007), LR 35:641 (April 2009), LR 35:1097 (June 2009), LR 35:1475 (August 2009), LR 36:482 (March 2010), LR 36:1224 (June 2010), LR 37:1126 (April 2011), LR 37:2132 (July 2011), LR 38:1000 (April 2012), LR 38:1225 (May 2012), LR 38:1399 (June, 2012), LR 39:2205 (August 2013), LR 41:372 (February 2015), LR 41:2594 (December 2015), LR 42:1877 (November 2016), amended LR 48:32 (January 2022), LR 49:

§1104. 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 a school site, but for which instruction has been temporarily transferred to a remote delivery method due to initiation of continuous learning, a situation that renders the school site inaccessible for daily instructional activities, or for students temporarily unable to physically attend at the school site.

E. Remote learning attendance and related requirements shall be outlined in LEA policy and communicated to students and parents or legal guardians at the beginning of the school year and upon initiation of remote instructional delivery.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7(5) and R.S. 17:232.

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? Yes.
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? Yes.
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—Attendance

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. There may be costs to school districts associated with making federal election days legal holidays for all schools which serve as a polling place to the extent that these schools do not already close on such days. There may also be increased workload to develop the continuous learning plans required by the proposed revisions. However, any associated costs are indeterminable.

The revisions align policy with Louisiana Revised Statutes 17:151.1, 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 school governing authority to develop a written continuous learning plan for modified operations during school closures. Finally, the revisions specify that the Tuesday following the first Monday in November in even-numbered years is a legal holiday for schools which serve as polling places.

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#039	Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 741—Louisiana Handbook for School Administrators—Installation and Operation of Cameras in Certain Special Education Settings (LAC 28:CXV.332)

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:CXV in *Bulletin 741—Louisiana Handbook for School Administrators*. The aforementioned 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.

Title 28
EDUCATION
Part CXV. Bulletin 741—Louisiana Handbook for School Administrators
Chapter 3. Operation and Administration
§332. Installation and Operation of Cameras in Certain Special Education Settings

A. Each LEA shall adopt policies relative to the installation and operation of cameras that record both video and audio in a classroom.

1. The policies shall be adopted not later than December 31, 2022, or within sixty days of the receipt of funding for the installation of cameras, whichever occurs first.

2. Not later than January 15, 2023, each governing authority shall submit a copy of the policies adopted pursuant to this Section to the state Department of Education.

3. Within 10 days of any revisions of the policies, each governing authority shall submit a copy of the policies to the department.

B. For the purposes of this section, "classroom" shall mean a self-contained classroom or other special education setting in which a majority of students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least fifty percent of the instructional day and for which a parent or legal guardian has requested a camera to be installed. "Classroom" shall not mean special education classrooms and other special education settings where the only students with exceptionalities receiving special education and related services are those who have been deemed to be gifted or talented and have not been identified as also having a disability.

C. The policies developed pursuant to this section shall include provisions for the following:

1. the location and placement of cameras, including a prohibition against recording of the interior of a restroom or any area designated for students to change or remove clothing;

2. written notice of the placement of the cameras to be provided to persons who enter a classroom where a camera is installed, including teachers and other school employees, students in the classroom, the students' parents and legal guardians, and authorized visitors;

3. training concerning the provisions of this Section for any teacher or other school employee who provides services in a classroom where cameras are installed;

4. the retention, storage, and disposal of the video and audio data recorded, including a requirement that the recordings be retained for at least one month from the recording date;

5. protecting student privacy and for determining to whom and under what circumstances the recordings may be disclosed including:

a. limiting the viewing of the recordings to the superintendent or his designee and the parent or legal guardian of a recorded student upon request, and

b. requiring any person who views a recording and suspects the recordings show a violation of state or federal law to report the suspected violation to the appropriate law enforcement agency;

6. requiring each camera installed to be incompliance with the National Fire Protection Association's Life Safety Code;

7. procedures for the approval or disapproval of a request for the installation and operation of cameras in a classroom;

8. procedures regarding how a parent or legal guardian may request the installation and operation of cameras in his child's classroom; and

9. procedures regarding how a parent or legal guardian may request to review a recording, under what circumstances a request may be made, and any limitations to a request.

D. Recordings made pursuant to this Section shall be confidential and shall not be public record. However, a recording may be viewed by the superintendent or his designee, the parent or legal guardian of a recorded student, or by law enforcement officials as provided in the policies required by this Section. The recordings shall not be considered "personally identifiable information" as defined in R.S. 17:3914.

E. The governing authority of each public elementary and secondary school is authorized to accept, administer, and make use of federal, state, and local funds, any public and private grants and donations, and, when considered appropriate and feasible, to accept nonmonetary resources in the form of services or equipment for use in connection with the installation and operation of cameras pursuant to this Section.