



STATE BOARD of ELEMENTARY and SECONDARY EDUCATION

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November 10, 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: Tavares A. Walker, 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, 2024, Notice of Intent that was promulgated on pages 1530-1532 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, 2025, 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.

TAW: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
Tavares A. Walker, Executive Director, BESE
Kevin Calbert, Communications Manager, BESE

Tavares A. Walker
Executive Director

Dr. Cade Brumley
State Superintendent

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, November 9, 2024, to Tavares A. Walker, 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 Tavares A. Walker, 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.

Tavares A. Walker
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 126—Charter Schools Charter Schools

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL 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 aligns Board of Elementary and Secondary Education (BESE) policy with legislation enacted during the 2024 Regular Legislative Session. The revisions adopt requirements for implementation of Act 172: extension and renewal; Act 198: local special education advisory council; Act 216: mandatory reporters; Act 331: print "988" on student ID cards; Act 334: charter law and notice; Act 337: expulsion; Act 352: tobacco and marijuana products; Act 364: Type 2 charter applicants with a corporate sponsor; Act 375: school nurse training; Act 400: discipline; Act 428: ten-point grading scale; Act 659: student enrollment percentages; Act 680: student names; Acts 686 and 716: required instruction

and trainings; and Act 780: student discipline. Workload may be slightly reduced due to removal of the requirement to conduct an extension review after the third year of a charter school term as well as a renewal review after the fourth year of the term.

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)

Workload for charter school administrators may be slightly reduced due to removal of the requirement to apply for an extension review after the third year of a charter school term as well as a renewal review after the fourth year of the term. Workload for charter school teachers may also be reduced due to removal of several state-mandated training requirements.

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
2410#059

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel Performance and Professional Development (LAC 28:CXLVII.313 and 331)

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 (BESE) proposes to amend LAC 28: CXLVII in *Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel*. The proposed amendments align BESE policy with legislation enacted by the 2024 Regular Legislative Session. The revisions adopt requirements for implementation of Act 193, which requires superintendent contracts to provide that the local superintendent is subject to a performance evaluation. At least fifteen percent of the evaluation shall be based on evidence of growth in student achievement by the end of third grade in literacy, and at least fifteen percent of the evaluation shall be based on evidence of growth in student achievement by the end of third grade in mathematics, as determined by BESE. Further revisions provide teachers greater autonomy in the selection of professional learning.

**Title 28
EDUCATION**

**Part CXLVII. Bulletin 130—Regulations for the Evaluation and Assessment of School Personnel
Chapter 3. Personnel Evaluation
§313. Professional Learning**

A. - A.4. ...

5. Educators rated Proficient or higher on the previous year evaluation should be afforded greater autonomy in the selection of professional learning.

B. ...

C. Each LEA must conduct an annual needs assessment to determine the effectiveness of its professional learning requirements and program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 17:391.10, R.S. 17:3881-3886, and R.S. 17:3901-3904, R.S. 17:3997, R.S. 17:10.1.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:1218 (May 2012), LR 51:

§331. Superintendent Performance Evaluation

A. The superintendent of a city, parish, or other local public school system shall be evaluated based on performance as established in a written contract.

B. At least fifteen percent of the evaluation shall be based on evidence of growth in student achievement by the end of third grade in literacy, and at least fifteen percent of the evaluation shall be based on evidence of growth in student achievement by the end of third grade in mathematics.

1. For the purposes of this Section, student achievement by the end of third grade in literacy shall be the percentage of students determined to be proficient by scoring at or above grade level on the end-of-year literacy screener administered in accordance with LAC 28: CXV.2307 (*Bulletin 741-Louisiana Handbook for School Administrators*).

2. For the purposes of this Section, student achievement by the end of third grade in mathematics shall be follows:

a. Through the 2025-2026 school year, student achievement by the end of third grade in mathematics shall be the percentage of students determined to be proficient by scoring at or above grade level on a system-selected objective measure of mathematics administered to all students in the school system.

b. Beginning with the 2026-2027 school year, student achievement by the end of third grade in mathematics shall be the percentage of students determined to be proficient by scoring at or above grade level on the end-of-year numeracy screener administered in accordance with LAC 28: CXV.2307 (*Bulletin 741-Louisiana Handbook for School Administrators*).

3. Growth in student achievement shall be measured as the change in the percentage of proficient students from the end of second grade to the end of third grade.

4. The remaining percentage of the evaluation shall be determined as established in the contract.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:54.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:

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, November 9, 2024, to Tavares A. Walker, 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 Tavares A. Walker, 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.

Tavares A. Walker
Executive Director

**FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES**

**RULE TITLE: Bulletin 130—Regulations for the
Evaluation and Assessment of School Personnel
Performance and Professional Development**

**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 provides for clarity regarding certain components of the evaluation of school superintendents, as required by their contracts. At least fifteen percent of the evaluation shall be based on evidence of growth in student achievement by the end of third grade in literacy, and at least fifteen percent of the evaluation shall be based on evidence of growth in student achievement by the end of third grade in mathematics, as determined by the Board of Elementary and Secondary Education (BESE). The rule change additionally provides teachers greater autonomy in the selection of professional learning.

**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 is a potential consequence of contract non-renewal should a superintendent fail to meet the performance criteria established; however, the proposed rule does not address contract provisions in their entirety but rather adds clarity regarding the literacy and mathematics components of the evaluation.

**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
2410#052

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 135—Health and Safety
Medication and Student Health
(LAC 28:CLVII Chapters 3, 5, and 7)

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

(BESE) proposes to amend LAC 28:CLVII in *Bulletin 135—Health and Safety*. The proposed amendments align BESE policy with legislation enacted by the 2024 Regular Legislative Session. The revisions set forth the requirements for implementation of the following acts: Act 95, CPR/AED training for coaches; Act 161, practitioner provision of services; Act 378, emergency medications; Act 421, cardiac health information for student athletes; Act 460, medication administration; Act 674, COVID vaccine not required for enrollment or attendance; and Act 745, behavioral health services.

**Title 28
EDUCATION**

Part CLVII. Bulletin 135—Health and Safety

Chapter 3. Health

§303. Immunizations

A. - H.2. ...

I. No teacher, school employee, or administrator shall discriminate based on a student's vaccination status to determine eligibility or participation in any classroom, school, or extracurricular activity, including organizing seating arrangements or issuing surveys to students relative to vaccine status.

J. No person shall be required to receive a COVID-19 vaccine as a condition of initial enrollment or continuing attendance at any public school or facility.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17:170, 17:170.2, and 17:170.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 39:1029 (April 2013), amended LR 45:35 (January 2019), LR 48:2549 (October 2022), LR 51:

§305. Administration of Medication

A. - B. ...

1. Medication shall not be administered to any student without an order from a Louisiana, or any other state of the United States, licensed physician, dentist, or other authorized healthcare prescriber and it shall include the following information:

B.1.a. - F.1. ...

2. The school nurse shall be responsible for the training of non-medical personnel who have been designated by each principal to administer medications in each school. Except for training in administration of an opioid antagonist such as Naloxone, the training shall be at least six hours and include but not be limited to the following provisions:

a. - e. ...

3. No employee other than a registered nurse, licensed medical physician, an appropriate licensed health professional, or hired and trained unlicensed nursing personnel or unlicensed assistive personnel as defined by the Louisiana State Board of Nursing shall be required to perform an outside tracheostomy suctioning procedure on any child in an education setting. However, nothing shall prohibit an employee who volunteers to perform such procedure and who complies with the training and demonstration requirement from being allowed to perform such procedure on a child in an educational setting.

G. - I.8. ...

J. Each LEA shall adopt a policy regarding the administration of naloxone and other opioid antagonists that authorizes a school to maintain a supply of naloxone or other