



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

Paul Hollis
1st BESE District

Sharon Clark
2nd BESE District

Sandy Holloway
3rd BESE District

Stacey Melerine
4th BESE District

Lance Harris
5th BESE District

Ronnie Morris
6th BESE District

Kevin Berken
7th BESE District

Preston Castille
8th BESE District

Conrad Appel
Member-at-Large

Judy Armstrong
Member-at-Large

Simone Champagne
Member-at-Large

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 1542-1545 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

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 741 (Nonpublic)—Louisiana
Handbook for Nonpublic School Administrators
Nonpublic Schools Legislative Response**

- 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 in the 2024 Regular Legislative Session. The rule change adopts requirements for implementation of Act 216: mandatory reporters; Act 331: print "988" on student ID cards; Act 352: use of vapes/marijuana at school; Act 460: vaccine status discrimination; Act 674: COVID vaccine not required for enrollment or attendance; and Acts 686 and 716: required instruction and training.
- 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)
The proposed rule change may result in a decrease in workload for teachers and administrators due to the removal of several state-mandated training requirements for educators. There are no anticipated impacts to small businesses or nongovernmental groups.
- 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#061

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1566—Pupil Progression Policies and Procedures
Numeracy and High Dosage Tutoring
(LAC 28:XXXIX.Chapter 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:XXXIX in *Bulletin 1566—Pupil Progression Policies and Procedures*. The proposed amendments align BESE policy with legislation enacted during the 2024 Regular Legislative Session. The revisions adopt requirements for implementation of Act 650: K-3 numeracy and Act 771: high dosage tutoring.

Title 28

EDUCATION

Part XXXIX. Bulletin 1566—Pupil Progression Policies and Procedures

Chapter 7. Promotion and Support Policy

§700. Support Standard for Grades Kindergarten-3

A. ...

1. Beginning with the 2026 - 2027 school year and beyond, each LEA shall identify all students in kindergarten, first, second, and third grades who score below grade level on the numeracy screener.

B. The school shall notify the parents or legal guardian of students identified as scoring below grade level pursuant to this Section in writing regarding the student's performance within 15 days of identification. Such notification shall:

1. Provide information on activities that can be done at home to support the student's literacy and/or numeracy proficiency.

2. Provide information about supports and interventions that will be provided by the school to support the student's literacy and/or numeracy proficiency.

B.3. - C. ...

1. Repealed.

D. Beginning no later than the 2026 - 2027 school year, a student in kindergarten through third grade, within 30 days of being identified as being below grade level based on the numeracy screener shall receive an individual numeracy improvement plan. The plan shall be created by the teacher, principal, other pertinent school personnel, and the parent or legal guardian; describe the evidence-based numeracy intervention services the student will receive; and include suggestions for strategies parents can use at home.

E. The school shall provide mid-year and end-of-year updates to the parent or legal guardian of students identified as below grade level pursuant to this Section.

F. The LDOE may audit a random sampling of the plans required by this Section in each LEA. The plans may be consolidated into a single expanded academic support plan in accordance with §705 of this Chapter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6; R.S. 17:7; R.S. 17:24.4; and R.S. 14:24.10.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:1760 (July 2022), LR 49:245 (February 2023), repromulgated LR 49:851 (May 2023), amended LR 51:

§701. Promotion and Support Standard for Grades 3-7

A. - C.2. Repealed.

D. - F.4. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:7; R.S. 17:24.4; R.S. 17:24.9; R.S. 17:24.10 and R.S. 17:24.11.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 44:481 (March 2018), amended LR 48:1760 (July 2022), LR 50:679 (May 2024), LR 51:

§705. Supports for Students

A. - A.3.a. ...

b. teachers shall be rated "proficient", "highly effective," or "exemplary" pursuant to the teacher's most recent evaluation or have achieved a value-added rating of "proficient", "highly effective", or "exemplary" on the most recent evaluation;

B. Student Level Plans

1. The individual academic support plan outlined in this Section shall be provided to identified students by the LEA and will be differentiated based on student needs. The individual academic support plan should provide intervention information and outline progress monitoring for each student.

2. LEAs shall design and implement additional instructional strategies to move the students to grade-level proficiency by providing at least 2 of the following, which shall be documented in the expanded academic support plan.

a. The student is placed in the classroom of a teacher who has been rated "highly effective" or "exemplary" pursuant to his/her most recent evaluation or has achieved a value-added rating of "highly effective" or "exemplary" pursuant to his/her most recent evaluation, or has documented evidence derived from state summative assessments of improving the academic performance of improving the academic performance of students having academic support plans in the past.

2.b. - 3. ...

4. The individual academic support plan should be considered the holistic plan that is differentiated based on student need and could include one or more of the following:

a. an individual reading improvement plan, in accordance with §700 of this Chapter;

b. an individual numeracy improvement plan, in accordance with §700 of this Chapter;

c. the individual student plan required by Subsection C of this Section;

d. the individual student plan required by §701 of this Chapter;

5. The LDOE shall provide a template to LEAs which will support the creation of the individual academic support plan for identified students.

6. An individual academic support plan developed to outline support provided for a fifth grade student in English language arts or mathematics will remain in place, updated annually, until the student achieves a score of "Basic" or above in each of the subjects that initially led to the development of the plan.

C. - C.5. Repealed.

D. Expanded Academic Tutoring Support.

1. Each LEA shall identify kindergarten through fifth grade students who fail to achieve mastery in reading or math in accordance with LAC 28:XI *Bulletin 111*.

2. Not later than September 15 of each year, LEAs shall submit to the LDOE a system-level plan and supporting budget to provide expanded support to identified students.

a. The LDOE shall review each plan submitted for compliance with federal and state regulations and provide feedback as necessary for compliance with applicable regulations.

b. The LEA must make applicable corrections within 10 school days of the date on which LDOE feedback was sent and return the updated plan and budget to LDOE.

3. Students identified as needing expanded academic support shall be provided with one of the following options:

a. prioritized placement in a class taught by a teacher labeled as "highly effective" or higher in accordance with LAC 28:CXLVII (*Bulletin 130*), if available; or

b. high dosage tutoring to commence no later than thirty days after the student is identified as needing expanded academic support or, for students identified during the summer, within the first 30 days of the school year.

4. High-dosage tutoring provided shall meet all of the following criteria:

a. incorporate direct instruction by tutors using formative assessment aligned with grade-level content and tier 1 classroom instruction;

b. be sustained for a minimum of 10 weeks;

c. be provided, at least 3 times per week, in approximately 30 minute sessions, which shall be imbedded in the school day;

d. use assessments throughout the school year to monitor student progress;

e. be based on high-quality instructional materials that are aligned with the state content standards and are specifically designed for supplemental instruction;

f. be individualized and provided at a ratio of not higher than 4 students to 1 tutor;

g. be provided by a high-quality, consistent tutor, or by a limited, consistent set of tutors throughout the student's supplemental instruction period; and

h. be provided in accordance with guidelines on research-based best practices and effective accelerated instruction strategies developed and provided by LDOE.

5. *High Quality Tutor*—an individual who meets at least one of the following criteria:

a. a person with training in using high quality instructional materials and who receives ongoing oversight while providing the high-dosage tutoring;

b. staff of a high quality tutoring provider;

c. current or retired teachers;

d. trained paraprofessionals.

6. Within 15 calendar days of a student being enrolled in high-dosage tutoring, the parent shall be provided a written expanded academic support plan detailing the high-dosage tutoring that will be provided, including information regarding who will provide the instruction and when the instruction will be provided. The plan shall include specific dates from progress reports and information on the parent role in accelerating student learning. The information shall be provided in a way that is accessible to the parent or legal guardian.

7. Each LEA shall provide a report by June 1 of each year to the LDOE on the following data regarding eligible and participating students:

a. the number of students identified as needing, and the number of students provided, expanded academic support, and related student metrics including tutoring subject, grade level, attendance, dosage, prior performance on the state assessment, and demographic information;

b. the number of students identified as needing, and the number of students provided, expanded academic support, related student metrics including tutoring subject, grade level, attendance, dosage, prior performance on the state assessment, demographic information for two or more consecutive years;

c. a list of high quality tutoring providers and any teachers used by the LEA to offer expanded academic support;

d. a summary of how the school day has been restructured to offer the expanded academic support; and

e. the amount and source of private, federal, state, or local funds spent on providing expanded academic support and how the funding was used by the LEA to provide high dosage tutoring.

8. LEAs shall utilize available state and federal funds to implement expanded academic support. If such funding is not available, a local school board shall not be obligated to provide funding to continue the expanded academic support.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, 17.7, and 17:24.4.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 36:2005 (September 2010), amended LR 40:2533 (December 2014), LR 44:482 (March 2018), LR 44:1004 (June 2018), LR 46:18 (January 2020), LR 49:245 (February 2023), 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 1566—Pupil Progression Policies and Procedures Numeracy and High Dosage Tutoring

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

The proposed rule change aligns Board of Elementary and Secondary Education (BESE) policy with education legislation enacted by the 2024 RS. The rule change adopts requirements

for implementation of Act 650: K-3 numeracy and Act 771: high dosage tutoring. The numeracy screener required by Act 650 is anticipated to cost approximately \$2.5 M in the first year and \$3 M annually thereafter. Development of student-specific numeracy plans and provision of intervention services may have an indeterminable additional impact on educator workload and may result in an increase in expenditures for local education agencies (LEA) in order to compensate these employees. These potential costs will vary by LEA and be dependent on its specific compensation schedule. Based on 2023 data, costs to provide high dosage tutoring services for the approximately 316,374 scores below benchmark in both English Language Arts (ELA) and Math assessments are estimated to total \$30 M.

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

Act 4 of the 2024 RS included a \$30 M appropriation to support the provision of tutoring services in public schools. Based on student data, each school system was notified of the amount of the appropriation it is eligible to receive. Systems will submit to the Department of Education (LDOE), by 9/15/24, a plan and supporting budget to provide expanded academic support to eligible students. Upon approval of the plan, the funds will be released to systems for use in providing tutoring during the school day.

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

Depending on how each school system designs its plan; tutors, tutoring services, current or retired teachers, or trained paraprofessionals could receive additional compensation in exchange for the provision of tutoring services.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

Additional employment opportunities for tutors, tutoring services, current or retired teachers, or trained paraprofessionals could emerge depending on the demand for tutoring services in a particular region.

Beth Scioneaux
Deputy Superintendent
2410#054

Patrice Thomas
Deputy Fiscal Officer
Legislative Fiscal Office

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 1929—Louisiana Accounting and Uniform
Governmental Handbook
Assignment of Chief Operating Officer
(LAC 28:XLI.1503)

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:XLI in *Bulletin 1929—Louisiana Accounting and Uniform Governmental Handbook*. The proposed amendments align BESE policy with legislation enacted by the 2024 Regular Legislative Session, adopting requirements for implementation of Act 368 regarding the assignment of a chief operating officer to assist a school system that is in noncompliance with the 70 percent instructional expenditure requirement of the MFP formula.

**Title 28
EDUCATION**

**Part XLI. Bulletin 1929—Louisiana Accounting and
Uniform Governmental Handbook
Chapter 15. Expenditure Requirements
§1503. Assignment of Chief Operating Officer**

A. The state superintendent of education may provide for the assignment of a chief operating officer to any city, parish, or other local school system that fails for two consecutive years to comply with any minimum instructional expenditure requirement contained in the Minimum Foundation Program formula as adopted by BESE and approved by the legislature.

B. Services of a chief operating officer shall be obtained through a contract for a length of time as determined necessary by the superintendent. The officer shall not be a permanent employee of the LDOE and shall not receive a state salary or associated benefits.

C. The officer shall research the financial position and practices of the system including factors contributing to the noncompliance with the minimum expenditure requirement contained in the Minimum Foundation formula. The officer shall submit a written report of the findings and recommendations generated from the research to the local school board and the state superintendent of education. The findings and recommendations for the system shall be included in any report made to BESE relative to system compliance with the minimum expenditure requirement.

D. The local school board shall develop a plan for compliance based on the officer's recommendations and shall submit the plan to the state superintendent in accordance with the timelines set by LDOE. The plan is subject to approval of the superintendent prior to implementation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6, R.S. 17:7, and 17:22.1.

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.