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# Title 28 EDUCATION

## Part I. BESE/8(g) Operations

### Subpart 1. Board of Elementary and Secondary Education

#### Chapter 1. General Provisions

##### §101. Purpose

A. These rules and any amendment adopted in conformity with these provisions shall govern the operating procedures of the Board of Elementary and Secondary Education (BESE), its officers and staff, its committees and advisory councils, and the State Superintendent of Education of the Louisiana Department of Education (LDE).

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008).

##### §103. Definitions

*BESE* and/or *Board*—the Board of Elementary and Secondary Education as created by the Louisiana constitution and the *Louisiana Revised Statutes*.

*Constitution*—the constitution of the state of Louisiana.

*House*—the Louisiana House of Representatives.

*Louisiana Department of Education* or *LDE*—the Louisiana Department of Education, the administrative arm of the Board of Elementary and Secondary Education.

*Senate*—the Louisiana Senate.

*State Superintendent*—the Louisiana superintendent of education, who shall be the chief administrative officer of the Louisiana Department of Education and shall administer, coordinate, and supervise the activities of the LDE in accordance with law, regulation, and policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008), amended LR 38:3149 (December 2012).

##### §105. Effective Period

A. These rules shall take effect upon final adoption by the board and in accordance with the Administrative Procedure Act (APA). These rules shall expire upon adoption of other rules by the board in accordance with the APA.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008).

### Chapter 3. Composition and General Authority

##### §301. Creation

A. The Board of Elementary and Secondary Education is created as a body corporate. It shall supervise and control the public elementary and secondary schools and special schools under its jurisdiction and shall have budgetary responsibility of all funds appropriated or allocated by the state for those schools, all as provided by law. The board shall have other powers, duties, and responsibilities as provided by the Louisiana Constitution or by law, but shall have no control over the business affairs of a city, parish, or other local public school board or the selection or removal of its officers and employees; however, in accordance with law, the board shall have the power to supervise, manage, and operate or provide for the supervision, management, and operation of a public elementary or secondary school which has been determined to be failing, including the power to receive, control, and expend state funds appropriated and allocated pursuant to Louisiana Constitution, Article VIII, §13, any local contribution required by Article VIII, §13, and any other local revenue available to a school board with responsibility for a school determined to be failing in amounts that are calculated based on the number of students in attendance in such a school, all in the manner provided by and in accordance with law.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 3.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008).

##### §303. Membership and Terms

A. The board shall consist of 11 members. One member shall be a resident of and shall be elected by the electors of each of the BESE districts. With consent of the senate, three members shall be appointed by the governor from the state at large. Members shall serve terms of four years, which shall be concurrent with the term of the governor. Members shall serve until their successors are selected and take office.

B. A vacancy in the office of an elected member, if the remaining portion of the term is more than one year, shall be filled for the remainder of the term by election, as provided by law. Other vacancies shall be filled for the remainder of the term by appointment by the governor.

AUTHORITY NOTE: Promulgated in accordance with Article VIII, Section 3; R.S. 17:1; and R.S. 17:2.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008).

**§305. Election of Officers and Their Duties**

A. The board shall elect a president, a vice-president, and a secretary-treasurer from its membership whose terms of office are fixed by the board, not to exceed one year. These officers shall assume their duties at the board meeting immediately following their election.

B. The president shall conduct board meetings and perform duties designated by the board or by statute. The president shall sign, on behalf of the board, contracts, agreements, and/or official documents approved by the board. The president is authorized to make ad hoc decisions for the board in emergency situations when the board is not in regular or special session and where policies and statutes are silent. However, any such decisions that constitute an obligation, official position, or action of the board are subject to ratification by the board at the next scheduled meeting. The president shall appoint members of committees of the board.

C. The vice-president shall preside at board meetings in the absence of or at the request of the president and shall perform any other duties specifically assigned by the board and any other such duties as requested by the president.

D. The secretary-treasurer shall preside at board meetings in the absence of both the president and the vice-president and shall perform any other duties specifically assigned by the board and any other duties as requested by the president.

E. The state superintendent shall serve as ex officio secretary of the board. As ex officio secretary, he/she shall have powers and functions assigned by the board, among which shall be the authority with the president of the board, to authenticate and verify official documents of the board and to submit agenda items for consideration by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3 and R.S. 17:22.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:409 (March 2008), amended LR 38:3149 (December 2012), LR 39:3262 (December 2013).

**§307. General Powers and Duties**

A. The board exercises its supervision and control over the public elementary and secondary schools and special schools under its jurisdiction, and exercises its budgetary responsibility for all funds appropriated or allocated by the state for public elementary, secondary, and special schools placed under its jurisdiction, through general powers and duties that shall include, but not be limited to, the following:

1. adopt a minimum foundation program and adopt a formula for the equitable allocation of minimum foundation funds to city, parish, or other local public school systems. The board shall adopt such program and formula for each ensuing fiscal year in a timely manner so that the program and formula may be submitted to the Joint Legislative Committee on the Budget in accordance with R.S. 17:22(2)(d);

2. exercise budgetary responsibility and allocate for expenditure by the schools and programs under its jurisdiction all monies appropriated or otherwise made available for purposes of the board and of such schools and programs;

3. supervise, manage, and operate or provide for the supervision, management, and operation of a public elementary or secondary school which has been determined to be failing, including the power to receive, control, and expend state funds appropriated and allocated pursuant to La. Const. Art. VIII, Sec. 13(B), any local contribution required by La. Const. Art. VIII, Sec. 13, and any other local revenue available to a school board with responsibility for a school determined to be failing in amounts that are calculated based on the number of students in attendance in such a school, all in the manner provided by and in accordance with law;

4. approve the administration of the special school district and the recovery school district by the LDE;

5. approve budgets of the LDE, including the special school district and recovery school district, and all entities under the jurisdiction of the board as provided herein;

6. prescribe and adopt free school books and other materials of instruction for the children of this state at the elementary and secondary levels and all other schools and programs under its jurisdiction for which the legislature provides funds, in accordance with law;

7. adopt or approve courses of study and rules, by-laws, and regulations for the discipline of students and for the governance of the public elementary and secondary schools and other public schools and programs under its jurisdiction, which shall not be inconsistent with law and which shall be enforced by the city, parish, or other local public school boards and the city, parish, or other local public school superintendents;

8. prescribe the qualifications and provide for the certification of teachers in accordance with applicable law, which qualifications and requirements shall be such as to insure that certification shall be a reliable indicator of the minimum current ability and proficiency of the teacher to educate at the grade level and in the subject(s) to which the teacher is assigned;

9. adopt minimum standards for the approval of each public elementary and secondary school and special school in the state under its jurisdiction;

10. except as otherwise provided by law, approve private schools in accordance with the provisions of R.S. 17:11 and other applicable laws;

11. exercise supervision and control over the state's special schools: the Louisiana School for the Visually Impaired, the Louisiana School for the Deaf, and the Louisiana Special Education Center;

12. exercise approval authority over the administration of the special school district by the LDE pursuant to law;

13. issue diplomas for successful completion of programs of study;

14. exercise approval authority over the administration of the recovery school district by the LDE pursuant to law;

15. authorize the operation of type 2, type 4, and type 5 charter schools and provide oversight through the LDE of type 2, type 4, and type 5 charter schools;

a. review each proposed charter in a timely manner and determine whether each proposed charter complies with the law and rules and whether the proposal is valid, complete, financially well-structured, educationally sound, and whether it offers potential for fulfilling the purposes of the charter school law;

b. enter into any proposed charter that complies with the charter school law and policy upon a determination that the charter is a valid, complete, financially well-structured, and educationally sound proposal that offers potential for fulfilling the purposes of the charter school law;

c. determine the policy and provide direction to the LDE for providing the oversight of the operation of charter schools chartered with the board;

16. adopt, amend, or repeal rules, regulations, and policies necessary or proper for the conduct of the business of the board.

AUTHORITY NOTE: Promulgated in accordance with La. Const. art. VIII, §8 and R.S. 17:6(A), 17:7(2)(a), 17:7(3), 17:7(4), 17:7(5), 17:7(6)(a)(i), 17:7(7), 17:7(8), 17:4.1, 17:43, 17:348, 17:6(A)(10), 17:6(A)(11), 17:10.5, 17:1990 and 17:3981.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008), amended LR 38:3150 (December 2012), LR 39:3262 (December 2013), LR 44:1995 (November 2018).

**§309. State Superintendent**

**A. Appointment**

1. The state superintendent shall be appointed by a two-thirds vote of the total membership of the board, subject to confirmation by the senate.

2. The board shall enter into a contract with the state superintendent that delineates the terms and conditions of employment. The length of the contract shall be determined by the board, but may not extend past the end of the term of office of the board members making the appointment, except that the contract may provide that the state superintendent may serve until the succeeding board has made an appointment.

3. Any vacancy in the office of the state superintendent which occurs prior to the expiration of the term of his/her contract shall be filled for the remainder of the unexpired term by the method of appointment provided herein.

4. The board shall delegate to the state superintendent such of its powers and duties as it deems appropriate to aid the state superintendent in the efficient administration of his/her responsibility for the implementation of the policies of the board.

**B. Qualifications.** The state superintendent shall possess the following qualifications.

1. General:

a. advanced degree in public administration, education, or related area;

b. background in the formulation and implementation of public policy;

c. strong academic background; and

d. qualifications as are adopted by rule by the board for the position of superintendent of a city, parish, or other local public school board, except that any such qualification may be waived by a favorable vote of at least two-thirds of the authorized board membership.

2. Experience:

a. proven record of success in administration;

b. demonstrated ability to achieve positive results;

c. credibility in his/her current profession; and

d. proven record of team building.

3. Professional skills:

a. proven decision-making skills;

b. proven leadership skills;

c. ability to work effectively with the legislature and executive branches of the government, education, business, and civic organizations; and

d. outstanding interpersonal and communication skills.

**C. Compensation.** The annual salary of the state superintendent shall be set by the board subject to the approval of the Joint Legislative Committee on the Budget.

**D. General Authority**

1. The state superintendent shall execute and implement those educational policies and programs which are under the supervision and control of the board and shall serve as the administrative head of the LDE.

2. The state superintendent shall have such other powers, functions, duties, and responsibilities as may be provided by law, regulation, and policy.

3. The state superintendent shall administer the recovery school district, an intermediate education unit within the LDE, pursuant to R.S. 17:1990. As the administrative head of the LDE, the state superintendent is the appointing authority for the recovery school district, except as provided herein.

4. The state superintendent shall be the governing authority for the special school district, an educational service agency within the LDE, pursuant to R.S. 17:1945. As the administrative head of the LDE, the state superintendent is the appointing authority for the special school district, except as provided herein.

5. The state superintendent may delegate, subject to the approval of the board, the appointing authority conferred upon him/her by law as to the recovery school district to the

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recovery school district supervising executive. The state superintendent may delegate administrative authority conferred upon him/her by law as to the recovery school district to the recovery school district supervising executive, subject to any restrictions provided by law, rule, or policy.

### E. Duties

1. The state superintendent shall establish such divisions within the LDE as are necessary or appropriate to carry out the functions vested by or under authority of the constitution and laws.

2. The state superintendent shall have budgetary responsibility for all funds appropriated or allocated by the state for the day-to-day operations and for the functions of the LDE that are not inconsistent with the functions of the board.

3. The state superintendent, as the administrative head of the LDE, shall oversee the administration and distribution of all federal funds received for the benefit of those phases of education under the jurisdiction of the board, in accordance with policies adopted by the board.

4. The state superintendent may review the responsibilities of the LDE and prepare a plan to restructure and reorganize the LDE subject to the approval of the board and in accordance with Louisiana Revised Statutes 36:645.

5. The state superintendent shall provide staff services within the LDE that are needed by the board to carry out its constitutional and statutory mandates.

6. The state superintendent shall exercise his/her responsibilities for personnel appointments in the following manner.

a. The state superintendent, with the consent of the board, may establish or abolish positions that direct the offices/divisions of the LDE.

b. The state superintendent shall make appointments to senior departmental positions. Senior departmental positions are unclassified positions that compose the superintendent's cabinet and any other senior unclassified position so designated by the state superintendent. Unless otherwise provided herein or in other administrative manuals approved by the board, employees holding such positions shall serve at the pleasure of the state superintendent, in accordance with the law.

c. The state superintendent shall appoint the recovery school district supervising executive with prior approval of the board. The board president shall be notified of any acting appointments taking effect and the board shall be notified of the acting appointment at its next regularly scheduled meeting. Upon appointment approval by the board, the employment of the recovery school district supervising executive will continue unless he/she is removed by the board upon recommendation of the state superintendent or upon voluntary separation from employment.

d. The state superintendent shall appoint the superintendent of the special school district, subject to confirmation by the Senate.

e. The state superintendent shall employ/appoint and fix the salaries and duties of employees of the LDE, including the special school district and the recovery school district, subject to applicable Civil Service laws, rules, and regulations, and other applicable laws, rules, regulations, and policies.

f. The selection of appointees to all unclassified positions shall be based on professional, technical, and/or clerical qualifications appropriate to each position.

g. No person shall, on the basis of race, color, religion, sex, age, national origin, handicap, veteran status, or any other non-merit factor, be discriminated against in any employment practice.

h. In addition to the above, the state superintendent shall exercise his/her responsibilities for personnel matters in accordance with the constitution and laws of the state.

7. The state superintendent's responsibilities with respect to local education agencies shall include, but not be limited to:

a. Pursuant to the rules, regulations, and policies adopted by the board, the state superintendent shall offer assistance to local public school officials and the elementary and secondary schools of the state in their efforts to adopt procedures by which:

i. courses of study prescribed by the board will be followed;

ii. teachers will meet the standards prescribed by the board; and

iii. schools will meet the standards for approval, which are prescribed by law or by the board.

b. The state superintendent shall assist the local education agencies and teachers in securing the best possible results from their efforts.

c. The state superintendent shall prescribe the manner and substance of classifications for program cost accounting to be used by local education agencies in the preparation and adoption of annual budgets.

d. The state superintendent shall receive the annual budget of each local education agency and may require the local education agency to operate the schools within the receipts normally expected and set up in the school system budget. This shall include the right to advise school boards participating in the state equalization fund in all matters relating to the preparation and adoption of their budgets and the right to require change when it is clearly evident that the budget fails to comply with the intent and purpose of the state equalization fund.

e. The state superintendent shall receive the annual financial report submitted by local education agencies, as required by law, regulation, or policy.

f. The state superintendent shall identify local school systems as being "academically in crisis" and notify appropriate officials, as provided by law.



8. The state superintendent shall make recommendations to the board for the approval of type 5 charter schools, subject to the policies and processes approved by the board.

9. The state superintendent shall periodically inform the board of areas in which policy development is needed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), 17:21(C), 17:6(B), 17:21(B), 17:21(D), 17:21(A), 17:1990, 17:24(A), 17:24(B), 17:24(C), 17:24(D), 17:22(2)(f), 36:645, 17:22(6), 17:88(B), 17:88(D), 17:92, 17:10.6(A)(2), 17:3983, 17:43, 17:1945, 36:642(C)(1), and 36:648.1.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 34:410 (March 2008), amended LR 37:886 (March 2011), LR 38:3150 (December 2012), LR 39:3262 (December 2013), LR 44:1995 (November 2018).

### **§311. The Special School District**

#### **A. Functions of the Special School District**

1. The special school district is an educational service agency administered by the LDE that includes the Louisiana special schools (Louisiana Schools for the Deaf and Visually Impaired and the Louisiana Special Education Center) and the special school programs. The special school district is available to all eligible students regardless of their place of residence within the state.

a. The Louisiana special schools are state-operated schools providing educational programs and services for residential and/or day students. The Louisiana special schools are established to provide a free appropriate public education for children with low incidence disabilities who meet the admission criteria (i.e., deaf, blind, orthopedically impaired) for each such special school and who are enrolled in such special school.

b. The special school programs provide educational services to students enrolled in state-approved programs in non-traditional settings such as those provided by the Department of Health's Office for Citizens with Developmental Disabilities and the Office of Behavioral Health, the Office of Juvenile Justice, and the Department of Public Safety and Corrections.

#### **B. Administration**

1. The special school district shall be under the administration and supervision of a superintendent of the special school district. The superintendent of the special school district shall exercise all duties and functions under the direct supervision and control of the state superintendent.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), 17:4.1, R.S. 17:6(B), 17:43, 17:1945, 36:642(C)(1), and 36:648.1.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 34:412 (March 2008), amended LR 38:3151 (December 2012), LR 39:3262 (December 2013), LR 44:1995 (November 2018).

### **§313. The Recovery School District**

#### **A. Establishment**

1. The recovery school district is established as an intermediate educational unit administered by the LDE, subject to the approval of the board, to provide an appropriate education for children attending any public elementary or secondary school operated under the jurisdiction and direction of any city, parish, or other local public school board or any other public entity, which has been transferred to its jurisdiction pursuant to R.S. 17:10.5 or 10.7.

#### **B. Organization and Administration of the Recovery School District**

1. The recovery school district shall be administered by the LDE, subject to the approval of the board.

2. The board shall oversee the administration of the recovery school district, with such administration subject to board approval through the policies it prescribes.

3. The overall administrative organization of the recovery school district consists of the board in the exercise of its approval over the administration of the recovery school district, the state superintendent acting as the recovery school district's governing authority, consistent with authority delegated by the board and statutory authority acknowledged by the board, and a supervising executive of the recovery school district.

4. The recovery school district shall be administered by a supervising executive, who shall report to the state superintendent. The responsibilities and duties of the recovery school district supervising executive shall be prescribed by the state superintendent.

#### **C. Policies and Procedures for the Recovery School District**

1. Policies for the board's administrative oversight of the recovery school district shall be adopted by BESE and set forth in the recovery school district bulletin. Administrative oversight shall include, but not be limited to:

a. policy governing activities that will ensure the purpose and functions of the recovery school district are being achieved;

b. fiscal responsibilities are being met;

c. community involvement is sought;

d. property is managed and developed under uniform and established guidelines;

e. student progress is measured and corrective action is taken when necessary;

f. district progress is measured in all essential areas and corrective action is taken when necessary;

g. reporting and planning measures are defined;

h. compliance with law and board policy exists;

i. charter school oversight exists; and

j. the recovery school district plan is being fulfilled.

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2. Procedures for the operation of the schools within the recovery school addressing the day-to-day operation of schools by the recovery school district shall be adopted by the state superintendent and set forth in the *Recovery School District Handbook* and supplements thereto. The state superintendent shall report on such procedures adopted, as required by the board. The board shall have the authority to review and provide guidance on procedures adopted by the superintendent and shall have the authority to direct the amendment of a procedure the board determines is in violation of law or policy. Operational procedures shall include, but not be limited to:

- a. instructional program;
- b. human resource and employment policies;
- c. rules governing student conduct, rights, and responsibilities;
- d. fiscal management;
- e. business management;
- f. school facility use and maintenance;
- g. district and student records;
- h. public and educational agency relations; and
- i. any procedure required by the RSD bulletin.

3. The recovery school district shall be subject to other BESE bulletins, including but not limited to the BESE charter school bulletin, to the extent that they are applicable to schools under its jurisdiction.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), 17:6(B), and 36:651(F).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 34:413 (March 2008), amended LR 36:2851 (December 2010), LR 38:3151 (December 2012), LR 39:3262 (December 2013), LR 44:1995 (November 2018).

### §315. Board Staff

A. The board shall employ staff to discharge the constitutional and statutory functions of the board as policymaker for elementary and secondary education.

B. The executive director shall be selected and appointed by the board and shall serve as the agency head responsible for all administrative and fiscal operations of the board.

C. The executive director shall appoint unclassified administrative staff.

D. Classified staff are hired by the executive director in accordance with procedures approved by the Louisiana Department of Civil Service.

E. In general, duties of the staff include the following:

1. provide professional staffing functions for all committees of the board, including the appellate functions related to the quasi-judicial actions of the board acting as the administrative agency of last resort prior to regular judicial proceedings;

2. assist in the policymaking functions, including the formulation and maintenance of regulating bulletins and rules;

3. answer inquiries (verbal and written) from and for board members;

4. provide staffing services to advisory councils established by the board and educational commissions established by the legislature. The board staff shall serve as secretariat to the advisory councils of the board. Secretarial services shall include the preparation of agenda and minutes, both of which shall be prepared according to regular office procedures of the board. The executive director shall supply each advisory council with a staff person who shall serve as an aide to the chair of the council and serve as a representative of the executive director for the purpose of coordinating activities of the advisory councils and the committees of the board;

5. provide necessary support services for BESE in its joint functions with the Board of Regents;

6. staff all board meetings and maintain official records and notifications of board action;

7. provide oversight for the distribution and monitoring of 8(g) funded programs;

8. monitor the LDE's development and implementation of charter school policy and its oversight of charter schools authorized by BESE;

9. testify at legislative hearings, as appropriate; and

10. provide any additional support services deemed necessary for the board to perform its constitutional and statutory duties.

F. Staff assistance from employees of the LDE may be secured for advisory councils only at the direction of the state superintendent of education.

G. All persons who are subject to the jurisdiction of the board and sign checks shall be bonded.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(15), R.S. 17:6(A)(10), R.S. 17:3(D), Article VII §10.1, R.S. 17:3801, and R.S. 17:3981.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 34:415 (March 2008), amended LR 38:3152 (December 2012), LR 39:3263 (December 2013).

## Chapter 5. Organization

### §501. Committees

A. As a means of assisting the board in the exercise of its powers and responsibilities as defined in the constitution and by law, committees are created.

B. Committees, composed of not less than three members of the board and appointed by the president, are:

1. Academic Goals and Instructional Improvement Committee. The following are examples of issues that will be considered by the Academic Goals and Instructional Improvement Committee.

- a. Primary areas of responsibility (AOR):
  - i. accountability, academic standards, and assessment;
    - (a). increasing accountability; and
    - (b). common standards policy concepts;
  - ii. improving academic performance and closing the achievement gap;
    - (a). policy concepts and subcommittee reports;
  - iii. red tape reduction;
    - (a). policy waivers;
  - iv. nonpublic school management;
    - (a). *Brumfield v. Dodd* approval; and
    - (b). academic classifications.
- b. Issues included on “as needed” basis in AOR:
  - i. critical updates;
  - ii. alternative, special education, and sub-population issues; and
  - iii. school/community support.

2. Administration and Finance Committee. The following are examples of issues that will be considered by the Administration and Finance Committee.

- a. Primary areas of responsibility (AOR):
  - i. board operations;
    - (a). calendars, travel, etc.;
    - (b). evaluations:
      - (i). state superintendent of education;
      - (ii). BESE executive director, etc.; and
    - (c). responses to legislative action (studies/reports);
  - ii. financial management and performance;
    - (a). budgets:
      - (i). BESE;
      - (ii). LDE;
      - (iii). RSD;
      - (iv). SSD;
    - (b). contracts and grants;
    - (c). MFP:
      - (i). analysis;
      - (ii). planning; and
      - (iii). redesign;
    - (d). 8(g) grant program; and

- (e). RSD capital projects.
- b. Issues included on “as-needed” basis in AORs:
  - i. financially at-risk reports (charters and school systems).
- 3. Educator Effectiveness Committee. The following are examples of issues that will be considered by the Educator Effectiveness Committee.
  - a. Primary areas of responsibility (AOR):
    - i. educator certification;
      - (a). policy concepts;
      - (b). certification revocations;
      - (c). records reviews for:
        - (i). certification denials due to felony convictions and the submission of fraudulent documents;
        - (ii). revocations due to felony convictions;
        - (iii). revocations due to submission of fraudulent documents;
    - ii. educator evaluation and performance;
      - (a). analysis; and
      - (b). policy concepts;
    - iii. educator preparation;
      - (a). program approval (i.e., alternative preparation).

4. School Innovation and Turnaround Committee. The following are examples of issues that will be considered by the School Innovation and Turnaround Committee.

- a. Primary areas of responsibility (AORs):
  - i. charter school performance, support, and oversight;
    - (a). charter amendment requests, approvals, extensions, and renewals, etc.;
  - ii. RSD performance management;
    - (a) school accountability—annual performance and exit eligibility; and
    - (b) school intervention decisions.
- b. Issues included on “as-needed” basis in AORs:
  - i. enrollment policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:415 (March 2008), amended LR 35:223 (February 2009), LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2139 (July 2011), LR 38:3152 (December 2012), repromulgated LR 39:308 (February 2013), amended LR 39:3263 (December 2013).

**§503. Advisory Councils**

A. Functions. In general, the function of an advisory council is to advise the board, directly or through its committees, in the discharge of its policymaking, supervisory control, and budgetary duties and responsibilities. Specific functions of an advisory council are determined by the creating law or policy. Advisory councils deal exclusively with matters referred to them by the board or the LDE. Matters referred to advisory councils are those that require external input regarding funding decisions, policy matters that need to be reviewed for local impact, bulletin revisions containing policies or supervisory controls, and matters particular to a council for which it was created. The LDE staff provides the board with a statewide and nationwide perspective on certain issues, while advisory councils respond from a local or community perspective.

B. Composition. Unless otherwise provided by state or federal law, each advisory council of the board is created by board policy. The policy determines the size of the council membership; the number of persons to be appointed by the board; the persons, organizations, affiliations, or interest groups to be represented on a council; and the length of terms. Unless required by law, no member of the board is a member of an advisory council.

C. Creation. The following advisory councils are created.

1. 8(g) Advisory Council:

- a. authority—per BESE policy;
- b. membership—16 members as follows:
  - i. eleven members, one member recommended by each BESE member from the member’s assigned category, as follows:
    - (a). one representative of a business partner in education;
    - (b). one LEA grant administrator;
    - (c). one elementary principal;
    - (d). one secondary principal;
    - (e). one representative of a nonpublic school system;
    - (f). one representative of a public charter school;
    - (g). one LEA supervisor;
    - (h). one teacher, grades preK-6;
    - (i). one teacher, grades 7-12;
    - (j). one LEA superintendent; and
    - (k). one 8(g) evaluator;
  - ii. Louisiana PTA president; and
  - iii. two ex officio members from the legislature, recommended by the senate president, from the following categories:

- (a). chair or member of the Senate Committee on Education; and
  - (b). chair or member of the Senate Committee on Finance;
  - iv. two ex officio members from the legislature, recommended by the speaker of the House, from the following categories:
    - (a). chair or member of the House Committee on Education; and
    - (b). chair or member of the House Committee on Appropriations;
    - c. referrals/responsibilities:
      - i. make recommendations with respect to the board’s annual establishment of priorities;
      - ii. make recommendations concerning any Louisiana Quality Education Support Fund policies, procedures, and/or activities;
      - iii. participate in any public hearing conducted by the board relative to the Louisiana Quality Education Support Fund;
      - iv. consider all matters referred by the board or the LDE.
2. Nonpublic School Council:
- a. authority—per state statute (R.S. 17:11);
  - b. membership—eleven members, one member recommended by each board member, representing approved nonpublic schools;
  - c. referrals/responsibilities:
    - i. advise the board relative to standards and guidelines affecting nonpublic schools;
    - ii. consider all matters referred by the board or the LDE.
3. Superintendents' advisory council:
- a. authority—per BESE policy;
  - b. membership—24 members as follows:
    - i. two city, parish, or other local public school superintendents recommended by each board member. It is recommended that the composition reflect all sizes of systems and be equitable in the regions represented, to the extent possible;
    - ii. the supervising executive of the RSD, who is appointed by the state superintendent of education;
    - iii. the president of the Louisiana Association of School Superintendents (LASS), who shall serve as chair of the council;
  - c. expenses. Members shall not receive reimbursement for travel expenses from the board.
  - d. Referrals/responsibilities:

i. consider all matters referred by the board or the LDE;

ii. recommendations from the superintendents' advisory council shall be reported to the appropriate board committee. The LDE shall provide responses to the recommendations.

D. Special Advisory Councils/Task Forces/Commissions/Study Groups. Special advisory groups may be created by the board with a limited charge and scope to study a specific topic as referred by the board. Such groups shall adhere to all advisory council officers, membership, and meetings policies, as described herein.

E Officers. Unless otherwise provided by state or federal law or board policy, each advisory council shall select from among its membership in attendance a chair and a vice-chair. Elections shall be held annually at the first meeting in a fiscal year, and the councils shall report election results to the board.

#### F. Membership

1. Terms. Unless otherwise provided by state or federal law, persons appointed by board members shall serve two-year staggered appointments at the pleasure of their recommending authority. Persons appointed by organizations and agencies other than BESE shall serve terms determined by the appointing authority. All appointments shall be made in July of the appropriate year, as determined by BESE staff. A council member may be removed without cause by the board member recommending the appointment, by the board member's successor, or by the recommending agency at any time. Appointees must maintain employment/qualifications appropriate to the organizational category being represented. Once a member retires, becomes employed in a different capacity, or otherwise fails to maintain eligibility, the member shall become ineligible to continue to serve and shall be replaced.

2. Vacancies. A vacancy in an appointed position shall occur if an appointee, for any reason, is unable to serve the full extent of his/her term. Appointments to fill vacancies shall be considered interim appointments.

3. Expenses. Members of advisory councils may be entitled to reimbursement for travel expenses, if specified by statute or not prohibited by board policy, pending availability of funds. Requests for reimbursement for expenses shall be submitted in accordance with the regulations promulgated by the commissioner of administration in the *Louisiana Travel Guide*.

4. Quorum. Unless otherwise provided, a quorum is a majority of the appointed membership. In the absence of a quorum, the advisory council may take unofficial action, but minutes submitted to the board shall indicate that the recommendations are being presented without the required quorum being present. When it is known beforehand that a quorum is unlikely, the council chair shall be so notified and the meeting shall be canceled.

5. Proxy. Any person serving on an advisory council who cannot attend a scheduled meeting may designate a

person to attend as that member's proxy if the appointing authority does not object. To receive reimbursement for travel and other expenses, a proxy must be properly designated by the active member and recorded in the minutes as being present. If the proxy is representing an advisory council member who is prohibited by board policy from receiving reimbursement for travel expenses, the proxy is likewise prohibited from receiving reimbursement.

#### 6. Attendance Policy

a. Appointed members are expected to attend all scheduled meetings of an advisory body. Unless otherwise provided, if a member is unable to attend a meeting, a request for an excused absence should be submitted to the council chair or the executive director one week prior to the meeting and a proxy may be named by the appointed member to serve for a total of three meetings. A council member shall be removed and his/her seat declared vacant if he/she is no longer a legal resident of Louisiana, fails to remain active in or is no longer employed by the organization or agency he/she was appointed to represent, or misses more than two meetings, unless excused prior to the meeting by the council chair.

b. The appointing authority for each member shall be notified immediately following each scheduled meeting indicating nonattendance of the appointee. The notification should include:

- i. name of the council member and council on which serving;
- ii. date of the meeting; and
- iii. board policy on attendance.

#### G. Meetings

1. Each advisory council shall meet as scheduled in order to consider referrals from the board or the LDE. Special meetings shall be by call of the board, and emergency meetings may be called at the discretion of the executive director.

2. Regular meeting dates shall be scheduled one year in advance and shall be determined by the executive director or the executive director's designee.

3. Agendas of council meetings shall be distributed to council members by the board staff at least 7 days in advance of a meeting, calendar permitting. All council meetings shall be conducted in accordance with the Louisiana open meetings law (R.S. 42:11 et seq.). In the event that no items have been referred by the board to an advisory council for consideration, there are no items pending on an advisory council agenda, and the LDE has no items to bring forward to the advisory council at least 10 days prior to a scheduled meeting, the meeting shall be cancelled and the members shall be notified of the cancellation.

4. In accordance with R.S. 42:19, the agenda may be amended upon unanimous approval of the members present at a meeting and subject to other provisions of the statute.

5. In all particulars, except for those listed in these rules and procedures, the business in advisory councils shall be conducted according to *Robert's Rules of Order*.

6. Every motion passed by an advisory council, whether or not made as a recommendation, shall be made as a main motion and must be seconded. All motions must be voted on and roll call votes may be requested by any of the membership in attendance at a meeting.

a. Requests from advisory councils for data/reports must be made in the form of a motion, requesting that the board direct the LDE or BESE staff to provide such information to the council making the request.

7. The minutes and reports of each advisory council shall be presented to the board's executive director for referral to the board. Actions taken in response to referrals shall be forwarded to the appropriate committee(s). A committee, after consideration of the recommendations of the advisory council, shall report its recommendations to the board for final action.

8. All meetings of advisory councils shall be considered official functions of the board to assist in the execution of board responsibilities and duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), 17:6(A)(15), 17:11, 17:24.4, and 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:416 (March 2008), amended LR 35:1874 (September 2009), LR 36:2851 (December 2010), LR 37:2140 (July 2011), LR 38:772 (March 2012), LR 38:3152 (December 2012), LR 39:3263 (December 2013), LR 42:563 (April 2016), LR 44:744 (April 2018), LR 44:1995 (November 2018).

## Chapter 7. Operations

### §701. Public Meeting Notice

A. Compliance with the Open Meetings Law. All meetings of the board, its committees, and advisory councils shall be conducted according to provisions of the Open Meetings Law.

B. Public Notice. Public notices for regular and special meetings of the board, its committees, and its advisory councils shall be made as required by Louisiana's Open Meetings Law. A 24-hour written public notice shall be given of any regular, special, or rescheduled meeting of the board, its committees, and its advisory councils. The 24-hour public notice shall include the agenda, date, time, and place of the meeting, as posted on the BESE website.

C. Cancellations. Cancellations of any board or committee meetings shall be made after a 24-hour public notice of the cancellation. In the event of the absence of a quorum at the scheduled time and place of the meeting, the meeting shall be cancelled because a quorum must be present in order that official business may be legally transacted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 42:14, and R.S. 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 37:2141 (July 2011), LR 39:3264 (December 2013).

### §703. Regular and Special Meeting Schedules

A. R.S. 17 requires the board to meet in regular session in January of each year and at such other times as are fixed by the board.

B. The board and committee meeting schedules for future calendar years are submitted to the board for approval in October.

C. Regular Board Meetings. Generally, regular meetings of the board shall convene on the third Wednesday of the month. A simple majority of board members may agree to meet on another day.

D. Special Board Meetings. Special meetings of the board may be held upon call of the president, and the president shall call a special meeting whenever requested to do so by a majority of the total members of the board.

E. Joint Board of Regents (BOR)/BESE Meetings. The Board of Regents shall meet with BESE at least twice a year to coordinate programs of public elementary, secondary, vocational-technical, career, and higher education.

F. Regular Committee Meetings. The chair of each committee of the board shall conduct regular committee meetings at such times as scheduled for consideration of agenda items.

G. Special Committee Meetings. Special meetings of a committee may be held upon call of the committee chair, and the chair shall call a special meeting whenever requested to do so by a majority of the total named members of the committee.

#### H. Committee of the Whole

1. The board may, if it so desires, constitute itself as a committee rather than as a full body and proceed to discuss matters as if it were in a committee, i.e., with relaxed rules.

2. When the board convenes itself as a Committee of the Whole, it acts as any committee. Its discussion is limited to the agenda item(s), and it has no greater authority than a regular committee. The board president convenes and adjourns the meeting, and each committee chair presides over that portion of the meeting pertaining to the issues routinely considered by his/her committee. Votes are not final, and committee actions are considered to be recommendations from the committee to the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(E), R.S. 17:6(A)(10), and Article VIII, Section 5(D).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 35:1874 (September 2009), LR 37:2141 (July 2011), LR 38:3153 (December 2012), LR 39:3264 (December 2013).

### §705. Agenda

#### A. Establishing Board Agenda

1. The board recorder shall prepare the agenda.

2. A board member, the state superintendent, or the executive director may request that any item be included

thereon either at a prior meeting or within the specified time before preparation and mailing of the agenda.

3. A board member, the state superintendent, or the executive director must request that an item be placed on the emergency agenda at least 26 hours prior to a scheduled meeting. The emergency agenda must be posted publicly at least 24 hours prior to the scheduled meeting.

#### B. Establishing Committee Agenda

1. The agenda for each committee shall consist of only those items listed in the public notice in accordance with the Louisiana Open Meetings Law.

2. The agenda for each committee meeting may include consent items, standing items, unfinished business, new business resulting from board referrals, and public comments received regarding Notices of Intent.

3. Items shall be placed on a committee agenda by using either the board's referral process or the draft agenda process as established through a board protocol. Items may be referred by board members, the state superintendent, or the BESE executive director. Board members must submit agenda item requests at least 18 days prior to a scheduled committee meeting.

C. Amending Board or Committee Agenda. In accordance with R.S. 42:19, the agenda may be amended upon unanimous approval of the members present at a meeting and subject to other provisions of the statute.

D. Distribution and Posting of the Agenda. The agenda for board and committee meetings shall be distributed to board members at least 10 days prior to the meeting date and posted on the web at <http://www.bese.louisiana.gov>.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 42:19.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:420 (March 2008), amended LR 37:2141 (July 2011), LR 38:3153 (December 2012), LR 39:3264 (December 2013), LR 44:1996 (November 2018).

### §707. Action/Quorum

A. Official Board Action/Quorum. A quorum of the board consists of six of its members who must be present in order that official business may be legally transacted. Official board action requires that any matter be submitted to the board by motion duly seconded. The chair states the motion and calls for discussion, after which the board may act on such matter following repetition of the motion by the chair. Six members of the board shall constitute a quorum for the transaction of business, and all official actions of the board shall require the favorable vote of a majority of the total membership.

B. Unofficial Committee Action/Quorum. A quorum of a committee consists of at least two of its named members. Any board member attending a committee meeting has full voting privileges and may be substituted as a named member of a committee as needed to establish a quorum. Unofficial committee actions require the favorable vote of a simple majority of the board members present, but no less than two favorable votes are required for a motion to pass.

#### C. Procedural Rules

1. All procedural rules adopted herein, or by reference, shall govern business to the extent that they are not inconsistent with the Louisiana Open Meetings Law or any other applicable state law.

2. All other rules and procedures not modified by these guidelines shall be governed by *Robert's Rules of Order*, revised edition, to the extent that such is not inconsistent with state law.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:3(C) and R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:421 (March 2008).

### §709. Board and Committee Meeting Protocol

#### A. Meetings, Recess, and Adjournment

1. A *meeting* of the board or a committee of the board is a convening of a quorum of the members to receive information regarding a matter or to deliberate or act on a matter over which it has supervision, control, jurisdiction, or advisory power. Depending on the business to be transacted, a meeting may last from a few minutes to several hours and may be carried over for more than one day, if deemed necessary. A meeting does not include chance meetings or social gatherings of the members of the board at which there is no vote or other action taken, including formal or informal polling of the members.

2. A board meeting is a meeting of a majority of the total membership of the board to take official action on matters before it. The president of the board shall preside over the board meeting, unless absent, in which case the presiding officer shall be governed by the provisions set forth in §305 herein.

3. A committee meeting is a meeting of a quorum of the named committee members to consider and make recommendations on matters before it. The committee chair shall preside over the committee meeting, unless absent, in which case another named member of the committee shall preside.

4. A *recess* is an intermission of a meeting which does not end the meeting or destroy its continuity as a single gathering, and after which proceedings are immediately resumed from the point of interruption.

5. An *adjournment* terminates the meeting.

#### B. Motions

1. Procedures for the making of motions shall follow *Robert's Rules of Order*, unless modified by these guidelines.

2. The BESE staff member facilitating a meeting shall read each agenda item and staff recommendation prior to the matter being considered. If the matter involves a report or presentation by an LDE or BESE staff member or other authorized representative, he/she may make the presentation and members may discuss and ask questions regarding the matter prior to the making of a motion.

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3. There shall be no discussion on a motion until it is seconded. The discussion shall be limited to the merits of the pending question. The order of discussion shall be left solely to the discretion of the presiding officer or chair. No member shall speak without first receiving recognition of the presiding officer or chair.

4. Each member shall be allowed to speak no more than twice on the same motion, unless he/she requests permission of the presiding officer or chair to be allowed to answer something of a personal nature or to correct a gross mistake. This shall in no way be interpreted to supersede the personal privilege prerogative of each member, as provided herein.

5. The maker of a motion shall be given the first opportunity to speak and to close on the motion, if he/she so desires. It is recommended that each member, in discussing an issue, attempt to:

- a. confine his/her remarks to the merits of the pending question;
- b. refrain from attacking a member's motives;
- c. address all remarks through the presiding officer or chair;
- d. refrain from speaking on a prior action unless it is reconsidered by the board or committee;
- e. read reports, quotations, etc., only without objection;
- f. refrain from disturbing the board or committee meeting, if possible;
- g. limit comments so everyone who wishes to speak on a motion may do so; and
- h. refrain from engaging in prolonged question and answer dialogue with staff on specific issues that could otherwise be addressed before or after the meeting.

6. There shall be no more than two amendments to a motion that is before the body. If one of these two is removed, another may be added.

7. A motion to close debate requires a 2/3 vote of those members present and voting.

8. Only those motions pertaining to items that are included in the agenda and are germane shall be considered.

### C. Voting

1. All voting shall be by voice vote, except when taken by roll call vote or when a member requests that his/her vote be recorded for the record.

2. A roll call vote must be taken on any motion if requested by any one member of the board. Roll call votes shall be taken alphabetically, except that the presiding officer or chair shall have the option of voting last in order or not voting.

3. A roll call vote must be taken on any motion to convene into executive session.

4. At the board meeting, when approving committee minutes and acting on committee recommendations, any board member wishing to address an item must have been in attendance at the committee meeting in which the action was taken.

5. Prior to voting on written documents, including, but not limited to, regulatory bulletins and legislative reports, members must be provided copies of any proposed non-technical revisions in writing. Non-technical revisions are those that alter the sense, meaning, or effect of the item.

### D. Rules of Conduct

1. Board members and staff should be on time for all meetings.

2. The presiding officer or chair should be cognizant of the schedule for board and committee work and attempt to conduct business within the time allotted. The presiding officer or chair shall have the right to limit, in time, the length of discussion on each motion, if time is of a critical nature.

3. It is the responsibility of the presiding officer or chair to direct the orderly meeting discussion. The presiding officer or chair, as an individual member, has the same right to discussion as any other member, but the impartiality required of the presiding officer in a discussion precludes his/her exercising these rights while he/she is presiding. If the presiding officer or chair wishes to make lengthy comments he/she should relinquish the chair, secure recognition, and participate. It is requested that any remarks that the presiding officer or chair wishes to make concerning an issue be made after all other members have been recognized.

4. LDE personnel should condense all presentations as much as possible and only in special instances should these presentations exceed 30 minutes.

5. For agenda items added by board members, the following shall apply:

a. presentations and backup materials shall be presented in consult with and/or by LDE/BESE staff; or

b. presentations and discussions shall be time limited to 10 minutes, unless a majority of board members vote to extend the time limit for the item.

6. A board member may request from the LDE any public document that has already been prepared or is in a readily available form.

7. A board member may not request new research, records, or reports not available and which requires compilation or research without a motion adopted by a majority of the board.

8. Persons other than board members, the executive director, staff persons assigned to the committee, or the state superintendent should not be on the dais while business is being conducted.

9. The presiding officer or chair should ask all presenters to identify themselves for the record.



10. Private discussions among board member(s), staff, or the state superintendent should occur away from the designated meeting area. The audience is asked to go outside the meeting room to conduct personal discussions.

11. Board members are asked to remain seated when individuals are making presentations to the board or receiving recognition by the board, as it is always an honor to be recognized by state-level officials.

12. Cell phones and other electronic devices must be turned off or taken to the side rooms for conversations, when activated.

13. Each member shall have the opportunity to speak on personal privilege following request by the member and recognition by the presiding officer. This privilege shall be conducted according to *Robert's Rules of Order*.

14. When a member feels the rules are being violated as to procedure, the member may make a point of order request to the presiding officer, calling for a ruling and an enforcement of the regular rules. A point of order request shall follow procedures in *Robert's Rules of Order*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 42:13, R.S. 17:3(C), R.S. 42:14, and R.S. 42:16.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:421 (March 2008), amended LR 37:2141 (July 2011), LR 38:3153 (December 2012), LR 39:3264 (December 2013), LR 40:2243 (November 2014).

**§711. Order of Business for Board Meetings**

A. The presiding officer shall call the meeting to order and request that the executive director call the roll to determine the presence of a quorum.

B. The proposed agenda shall be adopted as the official order of business for the meeting, including unfinished business from the preceding meeting and any emergency items, as publicly noted. The agenda adopted shall not include any items that have not been posted pursuant to §701.B and the Louisiana Open Meetings Law, unless amended pursuant to §705.C.

C. The minutes of the preceding meeting of the board, if available, shall be considered and approved.

D. The board may consider ceremonial acknowledgments as determined by the presiding officer. Such ceremonial acknowledgments should generally be made on behalf of the board by the presiding officer and the member representing the recipient's district.

E. The board shall hear committee reports from the chair of the committee or his/her designee and act on recommendations of the committee.

F. The board shall consider and act on other items on the agenda adopted in compliance with the procedures herein, including any emergency items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:422 (March 2008), amended LR 38:3153 (December 2012).

**§713. Public Comments**

A. To carry on its business in an orderly and efficient manner, the board utilizes committees. Full discussion of board business optimally occurs at the committee level, and public comment should be received at that time, rather than after a recommendation has been forwarded to the board. Opportunity to comment publicly on a committee or board agenda item shall be provided to a representative number of proponents and opponents according to the following procedures.

1. Persons desiring to address the committee/board should complete a request to comment card and submit it to the presiding officer or a BESE staff member prior to the beginning of the meeting. The completed card should identify the issue or item to be addressed. Other members of the public may be recognized at the discretion of the presiding officer or chair.

2. All speakers shall conduct themselves in a decorous manner.

3. The presiding officer or chair shall have the right to limit, in time, the length of public comment on each motion, if time is of a critical nature.

4. The order of discussion shall be left solely to the discretion of the presiding officer or chair.

5. Persons addressing the committee/board shall confine remarks to the merits of a specific agenda item before the committee/board; refrain from attacking a board member's motives; address all remarks through the presiding officer or chair; refrain from speaking adversely on a prior action not pending; read reports only without objection; and refrain from disturbing the meeting.

6. Submission of comment cards at least five minutes prior to the beginning of the meeting is encouraged.

7. Persons making public comments shall identify themselves and the group they represent, if any.

8. Groups and/or organizations should designate one spokesperson.

9. Public comments are limited to no more than three minutes per individual and five minutes per designated spokesperson of a group/organization. The chair may increase or decrease the time allotted to speakers, within time constraints.

10. The presiding officer or chair shall have discretion to manage situations not addressed in these procedures.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 42:14.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:422 (March 2008), amended LR 36:59 (January 2010), LR 37:2141 (July 2011), LR 38:3154 (December 2012), LR 39:3265 (December 2013).

**§715. Executive Session**

A. An executive session of the board or its committees shall be conducted in accordance with state law and may include discussion of matters relative to:

1. the character, professional competence, or physical or mental health of a person;
2. any report, development, or course of action regarding security personnel, plans, or devices;
3. prospective and/or pending litigation; and
4. any other issue permitted by law to be discussed in executive session.

B. The board may hold an executive session upon an affirmative vote, taken at an open meeting, of two-thirds of its constituent members present. The vote shall be taken by roll call vote. The vote of each member and the reason for holding an executive session shall be recorded and entered into the minutes of the meeting.

C. No final or binding action shall be taken during executive session.

D. When pending or prospective litigation may be considered by the board in executive session, the following information must be included in or attached to the written public notice of the meeting:

1. a statement identifying the court, case number, and the parties relative to any pending litigation; or
2. a statement identifying the parties involved and reasonably identifying the subject matter of any prospective litigation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:16, 42:17, and 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 39:3265 (December 2013), LR 44:1996 (November 2018).

**§717. Electronic Recordings**

A. Electronic recordings are made of all official meetings of the board, its committees, and its advisory councils.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 38:3154 (December 2012).

**§719. Minutes**

A. In accordance with the Open Meetings Law, the board shall keep written minutes of all of its open meetings. All meetings of committees and advisory councils shall be considered official functions of the board to assist in the execution of board responsibilities and duties; and actions of the committees and advisory councils, to be operative, shall be recorded and presented to the board at its next regular meeting.

B. The advisory council, committee, and board minutes shall include, but need not be limited to:

1. the date, time, and place of meeting;
2. the members recorded as either present or absent (Board members who do not attend committee meetings should be recorded as "not in attendance.");
3. the substance of all matters decided, and, at the request of any member, a record, by individual member, of any votes taken; and
4. any other information that a member requests be included or reflected in the minutes.

C. Board minutes shall not include roll call votes, abstentions, "yes" or "no" votes, or recusals placed on the record in committee.

D. A committee or board member may request that his/her views on individual items become part of the committee or board meeting minutes. To become part of the committee minutes, such views must be expressed at the committee meeting. To become part of the board minutes, such views must be expressed at the board meeting or must be presented to the board recorder, in writing, within three working days after the board meeting.

E. Board minutes shall be considered unofficial until approved by the board at its next scheduled meeting, at which time they become official.

AUTHORITY NOTE: Promulgated in accordance with R.S. 42:20.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 37:2142 (July 2011), LR 38:3154 (December 2012), LR 39:3265 (December 2013).

**§721. Records Retention and Destruction**

A. All records of the board are maintained and/or destroyed in accordance with the board's Record Retention Policy and Records Retention Schedule on file at the Office of the Secretary of State, Division of Archives, Records Management, and History.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 44:36

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008).

**§723. Documents, Papers, Property**

A. No documents, papers, or any other property of the board shall be removed from the office of the board without the authorization of the board or of its executive director.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008).

**Chapter 9. Equal Employment**

**§901. Equal Employment Opportunity; Affirmative Action**

A. In compliance with all applicable federal and state laws and regulations (including, but not limited to, title VII of the Civil Rights Act of 1964), BESE upholds the following

policy: This is an equal opportunity agency and is dedicated to a policy of nondiscrimination in employment in all agencies and institutions under its direct supervision. Applicants and employees will not be discriminated against on the basis of race, color, creed, national origin, sex, religion, age, handicap, or any other non-merit factor in any aspect of employment such as recruitment, hiring, promotion, retention, tenure, discharge, layoff, compensation, leave, fringe benefits, training, or any other employment practice or benefit.

B. Should violations of any equal employment opportunity laws and regulations occur, appropriate disciplinary action will be taken by the appointing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:423 (March 2008), amended LR 38:3154 (December 2012), LR 39:3265 (December 2013).

### **§903. Civil Rights Compliance and Assurances**

A. In compliance with all applicable federal and state laws and regulations (including, but not limited to, title VI of the Civil Rights Act of 1964; title IX of the Education Amendments of 1972; §504 of the Rehabilitation Act of 1973), BESE upholds the following policy:

“This is an equal opportunity agency and is dedicated to a policy of nondiscrimination in all programs or activities under its direct jurisdiction including city, parish, or other local public school systems or other entities receiving state or federal financial assistance through the board. No one will be discriminated against in any employment practice or in any educational program or activity on the basis of race, color, creed, national origin, sex, religion, age, handicap, or any other non-merit factor.”

B. The board will receive and oversee distribution of state and federal funds to city, parish, or other local public school systems or other entities qualifying for financial assistance for educational programs.

C. The board will enter into agreements with funding agencies as are necessary to ensure nondiscrimination and will submit such reports as may be required.

D. The LDE staff will conduct compliance activities as required by agencies providing funding to ensure compliance with their regulations.

E. All appropriate records shall be maintained and will be available for inspection by those agencies providing financial assistance.

F. All city, parish, or other local public school systems or other entities under the jurisdiction of the board which receive state or federal financial assistance through the board will sign an assurance document stating that they will comply with all applicable board policies, LDE regulations, and federal and state laws regarding civil rights compliance.

G. Should violations of any civil rights laws and/or regulations occur, appropriate action will be taken by the board in conjunction with the respective funding agency. Such

actions may include voluntary compliance, remedial action, or withholding financial assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008), amended LR 38:3154 (December 2012), LR 39:3265 (December 2013).

## **Chapter 11. Finance and Property**

### **§1101. Projects and Facilities**

#### **A. Capital Projects**

1. All requests for new capital construction or renovation projects submitted by board entities, including the special school district and the recovery school district, shall comply with all applicable state laws, all applicable regulations issued by the Division of Administration, and all BESE policy.

2. Requests for capital projects from the special school district shall be submitted to the superintendent of the special school district.

3. All requests for any given fiscal year shall be prioritized by the LDE, and the LDE shall present the priority listing of projects to the board. The board shall approve all capital construction or renovation projects and the priority of the requests prior to submission to the executive and legislative branches of government or prior to implementation of a project, as applicable.

#### **B. Use of Facilities**

1. When facilities of board institutions and facilities under the jurisdiction of the RSD are used for activities other than those of the institution or district, organizations concerned shall be required to reimburse the school for all costs incurred in connection with the activity, and they shall be further required to carry sufficient public liability insurance to protect all parties concerned, including the institutions or district.

2. Dining facilities at institutions or schools under the control of the board are not open to the general public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008), amended LR 38:3154 (December 2012), LR 39:3266 (December 2013).

### **§1103. Purchasing, Auditing, and Contracts for Professional Services**

A. Purchasing. Entities under the jurisdiction of the board shall comply with all applicable federal and state laws, rules, regulations, and board policy which govern the purchase of goods and services.

#### **B. Auditing**

1. Entities under the jurisdiction of the board shall submit to an audit of their operations. This audit shall be conducted in accordance with provisions and timelines established by the Office of the Legislative Auditor.

2. Once the Office of the Legislative Auditor has issued a report on the operations of an entity under the board's jurisdiction, it shall be the responsibility of the LDE to provide the board with a complete analysis of the report and to recommend corrective actions to be taken, when necessary.

3. The board shall annually approve the audit plan for the operations of the Bureau of Internal Audit (BIA) within the Louisiana Department of Education.

#### C. Contracts for Professional Services

1. Entities under the jurisdiction of the board shall negotiate all contracts for professional/consulting services in accordance with all applicable federal and state laws and in accordance with all applicable federal and state rules and regulations and board policy.

2. The state superintendent may negotiate and approve contracts for professional/consulting services in an amount determined by the board and shall issue a report to the board on all contracts approved.

3. The state superintendent shall recommend to the board for approval all contracts for professional/consulting services negotiated by the RSD in accordance with board policy.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:424 (March 2008), amended LR 38:3155 (December 2012), LR 39:3266 (December 2013).

### §1105. Budgets

#### A. General Policies

1. The LDE, including the special school district and the recovery school district, and all entities under the jurisdiction of the board shall submit all budget requests for all funds (state, federal, self-generated, etc.) to the board for review and approval. The entities shall be responsible for complying with all state laws and regulations regarding budget submission to the executive and legislative branches of government.

2. In approving budgets for the LDE and entities under the board's jurisdiction, the board shall be guided by all state plans adopted for the purpose of administering federal and state funded programs.

B. Budget Submission. The LDE, including the special school district and the recovery school district, and entities under the jurisdiction of the board shall submit their budgets to the board in a timely manner for approval prior to submission to the Division of Administration and legislative offices.

C. Budget Forms. The LDE, including the special school district and the recovery school district, and entities under the jurisdiction of the board shall submit their budgets on the forms prescribed by the Division of Administration.

D. Amendments and Revisions. Any budget requiring approval by the board can only be amended in accordance with state law and shall be reported to the board.

E. Interim Emergency Board. Prior to the submission of a request for funding from the Interim Emergency Board of the legislature, the LDE, including the special school district and the recovery school district, and entities under the jurisdiction of the board shall complete requests on forms prescribed by the Interim Emergency Board and shall receive approval for submission by the board. Submissions to the Interim Emergency Board shall be in compliance with all rules promulgated by that board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008), amended LR 38:3155 (December 2012), LR 39:3266 (December 2013).

### §1107. Minimum Foundation Program

#### A. MFP: General Provisions

##### 1. Board Adoption

a. The state superintendent of education shall prepare and recommend to the board for adoption a minimum foundation formula for the equitable allocation of funds to local school systems for the operation of their educational programs. In preparing this recommendation, the state superintendent shall comply with all appropriate state laws and regulations regarding elementary and secondary education.

b. The board shall adopt a minimum foundation formula for the equitable allocation of funds to local school systems. Once adopted, the board shall transmit the formula to the Joint Legislative Committee on the Budget and all other appropriate entities and offices of the executive and legislative branches of government.

##### 2. Local Responsibility

a. It shall be the responsibility of city, parish, or other local school systems; recovery school district schools; and LSU and Southern Lab schools to submit to the LDE in a timely manner all necessary and required information for the computation of an individual allocation from the minimum foundation formula. This information shall be submitted to the LDE in the form required by the LDE. It shall also be the responsibility of all city, parish, or other local school systems; recovery school district schools; and LSU and Southern Lab schools to follow all circulars issued by the LDE providing instructions for the preparation of the required data and other instructions regarding the computation of an allotment from the formula.

#### B. MFP Payments

1. City, parish, or other local school systems; recovery school district schools; and LSU and Southern Lab schools shall receive an allocation from the annual Minimum Foundation Program in 12 payments. These payments shall be incorporated into monthly amounts received from the state for implementation of the Minimum Foundation Program.

#### C. MFP—Student Membership Definition

1. Definition. For state reporting for public education for the purpose of establishing the base student count for state funding, city, parish, or other local school systems; approved charter schools; recovery school district schools; LSU and Southern Lab schools; Office of Juvenile Justice schools; New Orleans Center for Creative Arts (NOCCA); and Louisiana School for Math, Science, and the Arts (LSMSA) shall adhere to the following:

a. All students included for membership in a school shall be identified with the following minimum required identification elements:

- i. state identification number;
- ii. full legal name;
- iii. date of birth;
- iv. sex;
- v. race;
- vi. district and school code;
- vii. entry date; and
- viii. grade placement.

b. For establishing the base student membership count for state funding, the following guidelines will be adhered to:

i. no student will be counted more than one time. Students attending more than one school will be counted in membership only one time;

ii. all students, including special education students who meet the following criteria will be included in the base student membership count:

(a). have registered or pre-registered on or before student count dates designated in the current adopted MFP resolution (If student count date(s) falls on a Saturday, report membership on the previous Friday. If student count date(s) falls on a Sunday, report membership on the following Monday.);

(b). are actively attending school (All current state laws and BESE policies concerning attendance should be carefully followed. Appropriate documentation [either written or computer documents] such as dates of absences, letters to parents, notification to child welfare and attendance officers should be placed in individual permanent records for any students who may have absences which raise questions about the student's active attendance.);

(c). and/or have not officially exited from school (Students are considered to have officially exited if a notification of transfer has been provided by the student's parent/legal guardian or received from another school.);

iii. students who are in BESE-approved alternative programs (schools) in city, parish, or other local school systems; approved charter schools; recovery school district schools; LSU and Southern Lab schools; or Office of Juvenile

Justice schools will be included in the base student membership count.

iv. students who reside in Louisiana, attend school in another state, and are supported by Louisiana funding will be included in the base student membership count.

v. all special education preschool (ages 3-5) students will be included in the base student membership count.

vi. All special education infant (ages birth-2) students for whom one or more of the sixteen identified services are provided, shall be included in the base student membership count.

vii. Regular pre-kindergarten (four-year-old program) students will not be included in the base student membership count.

viii. Private school students receiving special education services through any public school system or school will NOT be included in the base student membership count.

ix. Students will be included in the base student membership count until the chronological age of 21 years. A student whose twenty-second birthday occurs during the course of the regular school year, will be counted in the base student membership count for that school year.

x. Students receiving educational services at any elementary and secondary school operated by the Office of Juvenile Justice (OJJ) in a secure care facility, considered to be a public elementary or secondary school, will be included in the base membership count of OJJ. The base membership count for OJJ is identified as average daily membership and is calculated by dividing the number of days the students are under the guidance and direction of teachers by the total instructional days during the specified school year.

#### D. MFP—Add-on Students/Units

1. Required Data. For purposes of establishing the data sets used in determining the add-on students/units, the following will be adhered to.

a. Low income and English language learner student count, also referred to as economically disadvantaged, shall be determined by the number of students with the following characteristics:

i. is eligible for Louisiana's food assistance program for low-income families;

ii. is eligible for Louisiana's disaster food assistance program;

iii. is eligible for Louisiana's program for assistance to needy families with children to assist parents in becoming self-sufficient;

iv. is eligible for Louisiana's healthcare program for families and individuals with limited financial resources;

v. is eligible for reduced price meals based on the latest available data;

- vi. is an English language learner;
  - vii. is identified as homeless or migrant pursuant to the McKinney-Vento Homeless Children and Youth Assistance Act and the Migrant Education Program within the Elementary and Secondary Education Act;
  - viii. is incarcerated with the Office of Juvenile Justice or in an adult facility;
  - ix. has been placed into custody of the state.
- b. Career and technical education unit count shall be determined by the number of secondary career and technical education courses per student as reported by the school districts through the Louisiana education accountability data system (LEADS) for the prior year.
- c. Special education—other exceptionalities student count shall be determined by the number of special education students identified as having “other exceptionalities” in the special education reporting (SER) database as of the student count date(s) including:
- i. infants and toddlers ages 0-2, who have a current individual family service plan (IFSP) and are currently receiving services; and
  - ii. both public and nonpublic special education students ages 3-21 identified as having a disability, as defined by R.S. 17:1943, who have a current individual education plan (IEP) and are currently receiving services from any local public school system or school. (Students serviced by SSD #1 and certain correctional facilities are excluded.)
- d. Special education—gifted and talented student count shall be determined by the number of special education students in the SER database as of the student count date(s), which includes both public and nonpublic special education students ages 3-21, identified as gifted and talented, as defined by R.S. 17:1943, who have a current IEP and are currently receiving services from any local public school system or school.
- e. Economy of scale student count shall be determined by the number of students in the base student membership count as defined in LAC 28:I.1107.C.1.

**AUTHORITY NOTE:** Promulgated in accordance with Art. VIII §13 and R.S. 17:7.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 34:425 (March 2008), amended LR 37:1142 (April 2011), LR 37:3219 (November 2011), LR 38:1404 (June, 2012), LR 38:3155 (December 2012), LR 39:3266 (December 2013), LR 44:744 (April 2018).

### §1109. Expenditure of Public Education Monies

A. All public education funds, in particular all state and federal monies, shall be allocated and expended in compliance with applicable federal and state laws, regulations, and policies. Any public employee of the board office who knowingly recommends or authorizes contract awards and/or expenditure of funds in violation of federal and state laws and/or BESE regulations or policies shall be subject to disciplinary action, including dismissal from employment.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008). amended LR 39:3267 (December 2013).

## Chapter 13. Regulatory Documents

### Subchapter A. Regulatory Documents

#### §1301. Bulletins

A. All regulatory policies and procedures adopted in response to state statutory requirements, most noticeably Louisiana Revised Statutes, Title 17, are contained in bulletins. Regulatory policies and procedures must be adopted by BESE as Rules through the rulemaking process set forth in Louisiana Administrative Procedure Act (APA). Once adopted, rules have the force and effect of law. The *Louisiana Register* requires that rules be codified, adhering to a prescribed uniform system of indexing, numbering, arrangement of text, and citation of authority and historical notes. APA requirements include an advertisement and comment period, as well as oversight procedures for the legislature.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6(A)(10), R.S. 49:951 et seq.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008).

#### §1303. Rulemaking

A. *Rule*—each agency statement, guide, or requirement for conduct or action, exclusive of those regulating only the internal management of the agency and those purporting to adopt, increase, or decrease any fees imposed on the affairs, actions, or persons regulated by the agency, which has general applicability and the effect of implementing or interpreting substantive law or policy, or which prescribes the procedure or practice requirements of the agency. *Rule* includes, but is not limited to, any provision for fines, prices or penalties, the attainment or loss of preferential status, and the criteria or qualifications for licensure or certification by an agency. A *rule* may be of general applicability even though it may not apply to the entire state, provided its form is general and it is capable of being applied to every member of an identifiable class. The term includes the amendment or repeal of an existing rule but does not include declaratory rulings or orders or any fees.

B. All rules adopted by the board must be adopted in accordance with the Louisiana Administrative Procedure Act (APA).

C. The following process must be followed for adoption of a new policy, the amendment of an existing policy, or the repeal of an existing policy.

1. The board approves a proposed Rule to be advertised as a Notice of Intent. The Notice of Intent approval will serve as authorization for the BESE executive director to submit the Notice of Intent to the Division of Administration's Office of the State Register to be published in the *Louisiana Register* for final adoption as a Rule at the expiration of the required

90-day advertisement period, if no public comments are received relevant to said Notice of Intent. If comments are received regarding the Notice of Intent, the comments will be considered by the board prior to final adoption as a Rule (refer to Subparagraphs 2.e-2.f.ii of this Subsection).

2. Following approval of a proposed Rule to be advertised as a Notice of Intent:

a. the appropriate LDE/BESE staff is requested to submit proposed policy language, a Family Impact Statement, a Poverty Impact Statement, a Small Business Analysis, a Provider Impact Statement, a Public Comments paragraph, a Public Hearing paragraph (if applicable), a Fiscal and Economic Impact Statement (FEIS), and comparison language to the board recorder for processing;

b. These documents are submitted to the Legislative Fiscal Office (LFO) for approval.

c. after the FEIS is approved by the LFO, the board recorder prepares the Notice of Intent in compliance with statutory specifications and submits it to the *Office of the State Register* for publication in the *Louisiana Register*. A report regarding the Rule is also submitted to the appropriate legislative committees;

d. Upon publication of the Notice of Intent in the *Louisiana Register*, a period of 90 days must elapse before the Notice of Intent can be adopted as a final Rule.

e. Any public comments received during the comment period are forwarded to the LDE/board office, to the appropriate BESE committee, and to the appropriate legislative committees for consideration.

f. In the event that substantive changes are made to the Notice of Intent as a result of the public comments received, the board can choose to:

i. approve for final adoption only those Sections that will not be changed as a result of the public comments and re-advertise as Notice of Intent only those Sections requiring substantive change; or

ii. not approve the Notice of Intent for final adoption, and begin the entire process anew.

3. The deadline for submission of information for publication in the *Louisiana Register* is the tenth of the month unless the tenth falls on a weekend or holiday, in which case the deadline will be the last business day prior to the tenth of the month.

D. Due to the board meeting schedule, the FEIS approval process, and the *Louisiana Register* deadlines, the entire process takes a minimum of five months to complete.

E. *Louisiana Administrative Code*, Title 28, Part Numbers XI, ad infinitum, have been reserved for board and LDE bulletins.

F. Codified board policies are posted on the Office of the State Register's website and are also accessible through links on the BESE website.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:426 (March 2008), amended LR 37:3220 (November 2011), LR 38:3156 (December 2012), LR 39:3267 (December 2013), LR 44:745 (April 2018), LR 44:1996 (November 2018).

### §1305. Amendments

A. Rules may be amended by an affirmative vote of six BESE members at any regular meeting of the board or at any special meeting where the proposed amendment is included on the agenda. The text of any proposed amendment shall be submitted, in writing, to the board and received by its members at least 10 days prior to the meeting at which action is to be taken.

B. The adoption of amendments to rules must follow the procedures outlined in §1303.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10), R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:427 (March 2008).

### §1307. Federal Eligibility Documents

A. State plans, consolidated state applications, and/or other eligibility documents are state policies and procedures adopted in accordance with federal regulations and/or administrative procedures for the operation of a specific federal program. Such policies and procedures are promulgated in accordance with all federal administrative laws and/or procedures. Examples of federal laws requiring state plans and/or eligibility documents are: Elementary and Secondary Education Act, Individuals with Disabilities Act, and the Adult Education Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:427 (March 2008).

## Subchapter B. Petitioning for Rulemaking

### §1309. Content of a Rulemaking Petition

A. In accordance with R.S. 49:953(C)(1), any interested person may petition the board's executive director in writing to adopt a new rule or amend or repeal an existing rule contained within the *Louisiana Administrative Code*, Title 28.

B. The petition shall include:

1. the petitioner's name and address;
2. the petitioner's interest in the proposed action;
3. the basis for the request;
4. specific text or a description of the proposed language desired for the adoption or amendment of a rule or the specific regulation and language requested for repeal;
5. any other information that justifies the proposed action; and

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6. the signature of the petitioner requesting the rule change.

C. A copy of the form to petition for rulemaking, as described in Subsection B of this Section, can be obtained:

1. from BESE's website;
2. by requesting a copy sent through the U.S. Mail; or
3. by means of facsimile.

D. The petition shall be submitted by certified mail and addressed to:

Board of Elementary and Secondary Education  
Attn: Executive Director of the Board  
P.O. Box 94064, Capital Station  
Baton Rouge, LA 70804

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 49:953 et seq.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 44:1996 (November 2018).

### **§1311. Processing a Rulemaking Petition**

A. Upon receipt, a petition for rulemaking shall be reviewed for completeness, as prescribed in LAC 28:I.1309. If found complete, the petition shall be processed in accordance with this Section.

B. Within 90 days of receipt of the petition for rulemaking, the executive director, after consulting with the board's officers, shall either:

1. initiate procedures for processing a proposed regulation, along with the rulemaking procedures provided in R.S. 49:950 et seq., upon approval to proceed with rulemaking; or

2. shall notify the petitioner in writing, stating the reason(s) for the denial, upon a denial to proceed with rulemaking.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 17:6 and 49:953 et seq.

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 44:1997 (November 2018).

## **Chapter 15. Honors and/or Special Recognitions**

### **§1501. Honorary Diplomas**

A. The board may award an honorary diploma to qualifying students who left high school before graduating to serve in the United States Armed Forces during World War II, the Korean Conflict, or the Vietnam War.

1. Veterans shall meet the following criteria to be eligible for an honorary diploma.

- a. The veteran left a public school located in Louisiana in order to serve in the United States Armed Forces during World War II, the Korean Conflict, or the Vietnam War.

- b. The veteran would have graduated from a public school in Louisiana in the years ranging from 1941 to 1950, 1950 to 1955, or 1964 to 1974.

- c. The veteran received an honorable discharge from the United States Armed Forces or was released from active duty because of a service related disability.

- d. The veteran has not previously been awarded a Louisiana standard high school diploma, but may have passed a high school equivalency examination.

2. An honorary diploma may be awarded posthumously to the family of a deceased veteran.

3. An honorary diploma awarded to an eligible veteran shall not be considered a standard Louisiana high school diploma for the purposes of satisfying postsecondary admissions requirements and/or determining eligibility for postsecondary financial aid, including, but not limited to, the Taylor Opportunity Program for Students (TOPS) scholarship.

4. The rights and privileges attached to a standard high school diploma, or its equivalent, are not applicable to any honorary diplomas conferred upon veterans meeting the requirements outlined above.

**AUTHORITY NOTE:** Promulgated in accordance with La. R.S. 17:6(A)(10).

**HISTORICAL NOTE:** Promulgated by the Board of Elementary and Secondary Education, LR 41:1273 (July 2015).

## **Subpart 3. Bulletin 921—Policy and Procedure Manual for the Louisiana Quality Education Support Fund 8(g)**

### **Chapter 21. Legislation and Purpose**

#### **§2101. Introduction**

**[Formerly LAC 28:XCIII.101]**

A. The Louisiana Education Quality Trust Fund (Permanent Trust Fund) was established in September of 1986 by Louisiana Constitution Article VII, Section 10.1, R.S. 17:3801. The Permanent Trust Fund is to receive the bulk of the proceeds from an offshore oil revenue settlement with the federal government. A separate Louisiana Quality Education Support Fund (support fund) was created in the Louisiana State Treasury to receive and hold the interest earnings from the trust. Fifty percent of the earnings in the support fund are constitutionally mandated to be appropriated by the legislature and allocated by the Louisiana state Board of Elementary and Secondary Education (BESE) for the enhancement of elementary and secondary education programs. The remaining fifty percent will be allocated by the Louisiana Board of Regents. To accomplish the goal of enhancement, the Constitution establishes the following as the purposes for which the BESE can allocate funds:

1. to provide compensation to city or parish school board of professional instructional employees;



2. to insure an adequate supply of superior textbooks, library books, equipment, and other instructional materials;

3. to fund exemplary programs in elementary and secondary schools designed to improve elementary and secondary student academic achievement or vocational-technical skill;

4. to fund carefully defined research efforts, including pilot programs, designed to improve elementary and secondary student academic achievement;

5. to fund school remediation programs and preschool programs;

6. to fund the teaching of foreign languages in elementary and secondary schools;

7. to fund an adequate supply of teachers by providing scholarships or stipends to prospective teachers in academic or vocational-technical areas where there is a critical teacher shortage.

B. The constitution and statutory law provide that the BESE must annually submit a program and budget to the legislature and the governor at least 60 days prior to the regular session, the program and budget for the expenditures for which it will make allocations. The allocations must not displace, replace or supplant appropriations from the general fund for the purposes of implementing the Minimum Foundation Program.

C. Contained in this manual are the policies adopted by the BESE to govern activities for the allocation of monies from the 8(g) support fund under its control. From these funds, the BESE will make allocations to enhance elementary and secondary education programs in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10) and R.S. 49:951 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3141 (December 2012).

### **§2103. Definitions** **[Formerly LAC 28:XCIII.103]**

A. As used in this document, the following terms shall have the meaning specified.

*8(g) Advisory Council*—an advisory council to the BESE which annually makes recommendations on the program, budget, and recommended projects for funding to be allocated by the BESE. The council shall operate in accordance with LAC 28:I.503 and shall serve without compensation, except for reasonable and necessary expenses for attending meetings and performing duties.

*8(g) Program and Budget*—consists of the broad categories of programs within constitutional categories and the total dollars the board proposed to fund in each category.

*8(g) Support Fund (Louisiana Quality Education Support Fund)*—a special fund in the Louisiana State Treasury, as specified in Article VII, Section 10.1 of the Louisiana Constitution and R.S. 17:3801. Fifty percent of the monies accruing to the support fund will be reimbursed by the

treasurer on an annual basis in accordance with legislative appropriation for allocation by the Louisiana state Board of Elementary and Secondary Education (BESE) and the remaining 50 percent by the Louisiana Board of Regents.

*Administrative Costs*—no more than 3 percent of the average annual amount of actual expenditures by each board for the most recent three previous fiscal years for which actual expenditures are available shall be utilized for employment of personnel and associated travel and other benefits, the operation of the 8(g) Advisory Council activities, costs associated with monitoring and administration of funded activities, and the necessary evaluations, audits, and preparation of the annual program and budget for the allocation process.

*Applicant*—an eligible agency which submits a proposal for funding in response to a request for projects by the BESE.

*Approved Nonpublic School*—any nonpublic school which has been certified by the board to meet nonpublic school standards and is approved for state funding under *Brumfield vs. Dodd*.

*Board*—Louisiana state Board of Elementary and Secondary Education, also referred to as BESE and SBESE.

*Budgets*—a detailed monetary explanation for proposed expenditures for each project. These must be approved prior to the release of funds.

*Equipment*—equipment used for day-to-day, direct instruction of students. The term includes all items that are durable (sturdy) in nature and tend to last more than a year. The term does not include equipment used in any manner for administrative purposes, such as copiers, office file cabinets and/or office furniture, and so forth.

*Exemplary Program*—a model program or project which is worthy of imitation and which provided the following results:

- a. there was ample objective evidence of effectiveness;
- b. the stated objectives were obtained;
- c. the educational needs of the students were met; and
- d. there was a clear and attributable connection between treatment and effect.

*Excess Costs*—funds which may be assessed by an applicant to conduct the activities listed in a proposal for 8(g) funds. All assessments must relate directly to the proposed 8(g) activities and reflect costs to the applicant which are above and beyond costs for normal operating activities.

*Fiscal Year (FY)*—the fiscal year shall begin on July 1 and end June 30.

*Foreign Language Instruction*—academic instruction in any language other than English. The term does not include instruction in English as a second language.

*Library Books*—any books to be available for circulation among the general school population, or a specific component of the general school population, for research or enhancement.

*Louisiana Education Quality Trust Fund (Permanent Trust Fund)*—a fund in the Louisiana State Treasury which is derived from settlement with the federal government under 43 USC 1337(g), as specified in Article VII, Section 10.1 of the Louisiana Constitution and R.S. 17:3801. Earnings of the Permanent Trust Fund accrue to the Louisiana Quality Education Support Fund as specified by law.

*Other Instructional Materials*—any materials used in the direct instruction of students which are not included under the annual per-student allocation for "materials of instruction" through the Department of Education, but not limited to, computer software, art and music supplies, instructional films, records slides, and other materials of a similar nature.

*Pilot Program*—an educational program which will implement educational procedures, activities, objectives, standards, curricula, methodology, content, and so forth which do not presently exist in the school or school system seeking support funds for the program.

*Pre-School Program*—any educational program provided for children who have not attained their fifth birthday. The term includes any and all types of educational readiness activities.

*Priorities*—the areas of focus/need, as established by the BESE, which will be utilized in the determination of the program and budget. Examples of priorities might be programs of statewide impact, regional impact, local impact or reading, discipline, mathematics, foreign languages, textbooks, etc.

*Project/Application*—the document submitted by an applicant requesting support fund monies which meets the requirements established by the BESE.

*Project/Application Deadline/Timeline*—the date(s) by which an applicant must submit a project to be considered for funding by the BESE from support fund monies.

*Projects*—the specific design for activities to be awarded funds under each category in the program and budget. These must be approved prior to release of funds.

*Project Year/Term*—the project year/term shall be the time established by an applicant/recipient in the project for the accomplishment of activities.

*Recipient*—an applicant who is awarded funds based upon an approved project.

*Remediation Program*—program which teaches an educational skill which is normally taught at a lower grade level, such as basic education provided for teenagers or adults, elementary grade level reading instruction provided at middle or secondary levels, and so forth. The term also includes social services provided in alternative school settings, special programs for high risk or potential drop-outs, and other

ancillary support services designed to elevate any student or group of students to appropriate grade level performance.

*Request for Projects*—the document issued to elicit plans from applicants who intend to conduct an activity from 8(g) funds which meets the priorities and program and budget established by the BESE. The document will contain the mandatory components established by the BESE as a basis for funding eligibility, (i.e. project goals, objectives, activities, budget, projected project evaluation and project timelines).

*Research*—a procedure to investigate conditions existing within specific school populations which is structured in accordance with the accepted standards of the American Educational Research Association.

*Scholarships*—payment of a specific lump sum of money for a specified period of study at an institution of higher education within this state. The sum of money paid to scholarship recipients may be utilized by recipients to meet any expenses of the said study.

*Stipends*—payment of specific costs associated with specific course work at institutions of higher education within this state. The term also includes tuition reimbursements.

*Superior Textbooks*—textbooks approved by the board which are supplementary to regularly approved textbooks or used to enhance instruction.

*Supplant/Displace/Replace*—legally prohibited types of expenditures for 8(g) funds. For purpose of this policy, supplant, displace, and replace refer to the process whereby 8(g) funds would be utilized in lieu of funds available from a source other than 8(g) funds, or 8(g) funds would be utilized to fund activities previously funded by a source other than 8(g) funds. The prohibition specifically refers to State General Fund (SGF) monies utilized to fund the Minimum Foundation Program in elementary and secondary education and SGF funded activities in vocational-technical education. The terms shall apply to the two fiscal years prior to the effective date of funding.

*Technology*—any tool that can be used in the school with students to enhance academic achievement (such as local and remote computer-based information, multimedia, calculators, satellite and broadcast resources) or any course or program which employs the use of such technology as it relates to student academic achievement in any of the core curriculum areas undergoing standards reform.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3142 (December 2012), amended LR 44:1997 (November 2018).

## Chapter 23. 8(g) Advisory Council

### §2301. Duties and Responsibilities of the 8(g) Advisory Council [Formerly LAC 28:XCIIL.301]

A. The 8(g) Advisory Council shall have the following responsibilities:

1. to make recommendations with respect to the board's annual establishment of priorities;
2. to make recommendations concerning any support fund policies, procedures, and/or activities;
3. to participate in any public hearings conducted by the board relative to the support fund;
4. to undertake and perform such other responsibilities as may from time to time be delegated by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3143 (December 2012), amended LR 44:1997 (November 2018).

**§2303. Composition of the 8(g) Advisory Council [Formerly LAC 28:XCIII.303]**

A. Refer to LAC 28:I.503 (advisory councils) for the composition of membership.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3143 (December 2012).

**Chapter 25. Public Participation**

**§2501. Public Participation in Establishment of Priorities for Expenditure of Support Fund Monies [Formerly LAC 28:XCIII.501]**

A. The board shall conduct at least one hearing annually to receive public input, ideas, and suggestions for programs and objectives for the expenditure of support fund proceeds for elementary and secondary schools.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3143 (December 2012).

**§2503. Public Notice of Hearings [Formerly LAC 28:XCIII.503]**

A. The board shall publish the date(s), time(s), and location(s) of such hearing(s) at least two weeks prior to each scheduled hearing in order to provide adequate notice to the public.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3143 (December 2012).

**§2505. Deadline for Completion of Public Hearings [Formerly LAC 28:XCIII.505]**

A. Public hearings, as authorized by Section 110 hereof, shall be completed by October 31 of each year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3143 (December 2012).

**§2507. Compilation of Recommendations Made at Public Hearings [Formerly LAC 28:XCIII.507]**

A. The recommendations tendered at any such public hearing(s) shall be compiled by the board staff for review by the board at its next meeting, and shall be available to the 8(g) Advisory Council and the public no later than December 31.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3143 (December 2012).

**Chapter 27. Annual 8(g) Program and Budget**

**Subchapter A. Establishment of Annual 8(g) Program and Budget**

**§2701. Establishment of Annual 8(g) Program and Budget; Priorities [Formerly LAC 28:XCIII.701]**

A. During every fiscal year, the board shall establish the 8(g) program and budget for the expenditure of support fund monies which are anticipated to become available in the subsequent fiscal year. In delineating the educational programs and objectives which shall constitute its 8(g) program, the board may establish one or more priorities. In developing the 8(g) budget, the board shall assign dollar amounts to each category program included in its proposed 8(g) program.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VII, §10.1, R.S. 17:7.3, and R.S. 17:3801.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3144 (December 2012).

**§2703. Establishment of Priorities through the Allocation of Support Fund Monies within Constitutional Categories [Formerly LAC 28:XCIII.2703]**

A. The board shall establish its annual priorities for the expenditure of support fund monies by allocating a specific dollar amount and/or a specific percentage of the total support fund monies appropriated for any fiscal year to one or more of the categories of educational programs eligible to receive support fund monies, as follows:

1. to provide compensation to city or parish school board or postsecondary vocational-technical professional instructional employees;
2. to insure an adequate supply of superior textbooks, library books, equipment, and other instructional materials;
3. to fund exemplary programs in elementary, secondary, or vocational-technical schools designed to improve elementary, secondary, or vocational-technical student academic achievement or vocational-technical skills;
4. to fund carefully defined research efforts, including pilot programs, designed to improve elementary and secondary students academic achievement;

5. to fund school remediation programs and pre-school programs;

6. to fund the teaching of foreign languages in elementary and secondary schools; and

7. to fund an adequate supply of teachers by providing scholarships or stipends to prospective teachers in academic or vocational-technical areas where there is a critical teacher shortage.

B. In establishing annual priorities for the expenditure of support fund monies, the board may specify types of educational programs or projects which shall receive preference for funding. For example, the board may elect to give preference in the award of support fund monies, within the constitutional category of exemplary programs, to exemplary projects designed to reduce drop-outs.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VII, § 10.1, R.S. 17:7.3, and R.S. 17:3801.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3144 (December 2012).

**§2705. Allocation of Support Fund Monies for Statewide Purposes**  
**[Formerly LAC 28:XCIII.705]**

A. The board, in its sole discretion, may allot a specific amount or a percentage of support fund monies for expenditures necessary to implement specific statewide educational projects mandated by the board. For example, the board may elect to allot a specific percentage of the total support fund monies available in any given fiscal year to the implementation of foreign language instruction in the elementary grades, as previously mandated by the board. The board may issue general or specific requests for projects for the development and/or implementation of any statewide educational project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3144 (December 2012).

**§2707. Set-Aside for Administrative Purposes; Limitation on Amount; Purposes for which Set-Aside May Be Expended**  
**[Formerly LAC 28:XCIII.707]**

A. The board shall determine the percentage of anticipated support fund revenues which shall be set aside to pay costs associated with the administration of the Program. Such administrative set-aside shall not exceed no more than 3 percent of the average annual amount of actual expenditures by each board for the most recent 3 previous fiscal years. The administrative set aside shall be used to pay costs including, but not limited to:

1. the salaries and related costs of 8(g) personnel;
2. the expenses of the 8(g) Advisory Council;
3. the costs of public hearings;

4. the expenses of review committees which may assist the board in necessary determinations as to eligibility of applicants and/or feasibility of projects;

5. necessary monitoring and evaluation of funded projects;

6. preparation and dissemination of annual reports; and

7. materials, supplies, furniture, and equipment.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VII, § 10.1, R.S. 17:7.3, and R.S. 17:3801.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3144 (December 2012).

**§2709. Notice of Adoption of Annual 8(g) Program and Budget**  
**[Formerly LAC 28:XCIII.709]**

A. The board shall post on its website a summary of the adoption of the annual 8(g) program and. Such summary shall consist of a summary of the educational objectives and/or programs to receive budgetary priorities, including the proposed allocation. Such report shall include, but not be limited to, the following:

1. the amount set aside for administrative purposes;
2. an explanation of specific priority(ies), if any, established by the board, and the dollar amount allocated for each program; and
3. any additional information relative to board actions which has a direct bearing upon the eventual awarding of support fund monies to eligible recipients.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3144 (December 2012), amended LR 44:1997 (November 2018).

**§2711. Allocations of the Board to be Reported to the Governor and the Legislature**  
**[Formerly LAC 28:XCIII.711]**

A. The decisions of the board relative to the expenditure of support fund monies in the fiscal year next following establishment of the annual 8(g) program and budget shall be reported to the legislature and the governor not less than 60 days prior to each Regular Session of the Legislature.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VII, § 10.1, R.S. 17:7.3, and R.S. 17:3801.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012).

**Subchapter B. Eligibility Criteria**

**§2713. Eligibility Criteria**  
**[Formerly LAC 28:XCIII.713]**

A. The following eligibility criteria apply to all applications for support fund monies.

1. The project to be funded must be within a category specified under Article VII, Section 10.1(D)(2) of the Louisiana Constitution and the annual program adopted by

the board. (See §703 hereof for a verbatim listing of the categories of educational programs authorized in said provision.)

2. No project in an elementary or secondary school can be approved through the support fund if the project replaces a program funded through the Minimum Foundation Program or State General Fund unless there has been a lapse of at least two fiscal years.

3. All applicants must also comply with eligibility requirements, if any, established for each constitutional category. Program category requirements are set forth in the Sections of these regulations, relative to each constitutional category.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VII, § 10.1, R.S. 17:7.3, and R.S. 17:3801.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012).

#### **§2715. Eligible Applicants**

**[Formerly LAC 28:XCIII.715]**

A. The following are eligible to apply for an award of support fund monies:

1. any public or approved nonpublic elementary/secondary school system located within the state of Louisiana. Applications made on behalf of a specific classroom teacher, a department within a school, a group of schools, or on a system-wide basis shall be eligible for submission only through the approved recipient who shall serve as fiscal agent;

2. any approved elementary or secondary school located within the state of Louisiana that is not part of a school system, provided that the school has been certified by the state Board of Elementary and Secondary Education to meet all applicable standards and is approved for state funding under *Brumfield vs. Dodd*. Applications made on behalf of a specific classroom, teacher, or department, or an entire school shall be eligible for submission only through the approved recipient who shall serve as fiscal agent;

3. private organizations/individuals shall be eligible to submit only through an approved recipient who shall serve as fiscal agent;

4. state agencies shall be eligible for funding for noncompetitive statewide projects, as allocated by BESE.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012).

### **Subchapter C. Application for Support Fund Monies**

#### **§2717. Application for Support Fund Monies**

**[Formerly LAC 28:XCIII.717]**

A. It is required that eligible recipients desiring to apply for support fund monies in any constitutional category submit an application.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VII, § 10.1, R.S. 17:7.3, and R.S. 17:3801.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012).

#### **§2719. Period to be Covered by Application for Support Fund Monies**

**[Formerly LAC 28:XCIII.719]**

A. The maximum years eligible to receive funding for a continuing project is three years. It should be clearly understood by applicants, however, that no project will be funded for more than one fiscal year. Funding for subsequent years contained in the project proposal is subject to reconsideration by the board in each subsequent fiscal year. The award of support fund monies will, in all cases, be guaranteed for one fiscal year only.

B. Applications for support fund monies may be submitted by eligible applicants for varying periods of time, as follows:

1. for periods of less than one fiscal year;

2. for periods which correspond with the beginning and ending dates of one fiscal year. No projects will be funded for a period which begins in one fiscal year and ends in a different fiscal year;

3. For periods of two or more fiscal years. It should be clearly understood by applicants, however, that no project will be funded for more than one fiscal year. Funding for any subsequent years contained in the project proposal is subject to reconsideration by the board in each subsequent fiscal year. The award of support fund monies will, in all cases, be guaranteed for one fiscal year only.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012).

### **Subchapter D. Evaluation of Support Fund Applications**

#### **§2721. Determination of Eligibility**

**[Formerly LAC 28:XCIII.721]**

A. An application for support funds must demonstrate that the project for which support funds are requested complies with the constitutional eligibility factors enumerated in Section 121 hereof, and that the project conforms to the priorities and objectives delineated in the annual 8(g) program and budget adopted by the board for that specific funding period.

B. All applications received in the board office shall be reviewed by a minimum of two employees of the board to determine compliance with the constitutional requirements established under Article VII, Section 10.1(D)(2) and enumerated at Section 121 hereof.

AUTHORITY NOTE: Promulgated in accordance with La. Const. Art. VII, § 10.1, R.S. 17:7.3, and R.S. 17:3801.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3145 (December 2012).

**§2723. Award of Support Fund Grants  
[Formerly LAC 28:XCIII.723]**

A. Funding determinations shall be finalized by the board for projects to be funded as of July 1.

B. The board staff shall notify all applicants of the disposition of their projects following board approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10).

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 38:3146 (December 2012).

**§2725. Provisions Relative to Superior Textbooks,  
Library Books, Equipment, and Other  
Instructional Materials  
[Formerly LAC 28:XCIII.725]**

A. Projects which anticipate across-the-board increases in the per-student allocation for textbooks, library books, and other instructional materials for a single elementary/secondary school or school system are not eligible for funding in this category, since such allocations will be addressed by the board on a statewide basis. In the annual establishment of priorities for the expenditure of support fund monies, the board may allocate support funds for an across-the-board increase in the per-student allocation for textbooks, library books, and other instructional materials.

B. The following types of projects are eligible for support funds in this category:

1. textbooks:

a. projects which provide for the purchase of textbooks for a specific instructional program which is not offered to an entire student body, such as textbooks for advanced study in any scientific or mathematics field, or other programs of a similar nature at any grade level;

b. projects which will provide necessary textbooks for advanced Placement programs in any secondary school;

c. Projects which provide for the purchase of textbooks suitable to a program of independent study for an academically gifted student at any grade level, provided that evidence must be provided in the proposal of the academic standing of any student engaged in independent study for whom special materials will be acquired with support funds;

d. Projects which provide for the purchase of textbooks not included on the Textbook Adoption List, such as textbooks which are appropriate for handicapped students, provided that such textbooks must be listed in the proposal.

2. Library Books

a. Projects which provide for the purchase of current encyclopedias, world atlases, etc. where no similar resource materials are available within a given school;

b. Projects which will permit the acquisition of appropriate library resource materials to be used in any specific instructional program, such as texts in a foreign language offered in the school which will acquire the

additional library volumes, additional volumes in a specific field of science or mathematics, and so forth;

3. Equipment

a. Projects which provide for the purchase of instructional equipment, provided that only equipment which is used for the direct instruction of students on a daily basis is eligible for support funds in this category.

b. Equipment purchased with 8(g) funds should remain with the program as long as it is operating (with either 8(g) or other funding source). If the equipment is more than four years old, is non-operational, or is obsolete, the equipment may be surplus or disposed of following the appropriate agency and State regulations and its disposition reported to the Board of Elementary and Secondary Education office.

c. When a program terminates, the equipment should be moved to another 8(g) program, and the disposition should be reported to the board.

4. Other Instructional Materials:

a. projects which provide for the purchase of instructional software programs marketed by commercial firms to be used in existing computer equipment;

b. projects which provide for the purchase of art or music supplies, such as oil paints, paint brushes, sheet music, records, etc.;

c. projects which provide for the purchase of instructional supplies such as saws, hammers, nails, etc., to be used in vocational training;

d. projects which provide for the purchase of foodstuffs to be used in family and consumer science instructional programs funded with 8(g) monies;

e. projects which provide for the purchase of instructional films and slides; and

f. projects which provide for the purchase of other recognized instructional materials which are not available under the annual per-student allocations for materials of instruction, provided that such other instructional materials must be fully described in the project.

C. The project must include the number and grade levels of students who will have access to the items purchased.

D. The project must contain the school site where items purchased will be housed.

E. The project must include the name and title of the school employee responsible for proper usage of the items purchased.

F. Whenever the purchases are for the use of a specific population within a school, such as advanced placement students, the project must name the specific population and must illustrate the reasons for selecting the specific population to receive support fund monies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3146 (December 2012).

**§2727. Provisions Relative to Exemplary Programs in Elementary and Secondary Schools [Formerly LAC 28:XCIII.727]**

A. The program must clearly demonstrate that appropriate implementation will result in improved student achievement at the elementary/secondary level.

B. In the program, there must be a clear correlation between the activities to be implemented and the results to be achieved.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3146 (December 2012).

**§2729. Provisions Relative to Research and Pilot Programs Designed to Improve Elementary and Secondary Student Academic Achievement [Formerly LAC 28:XCIII.729]**

A. An eligible applicant may receive funding for a program which is limited to educational research. However, any applicant seeking funds for a "pilot program" must either:

1. incorporate a "research component within the pilot program in order to verify that program activities do, in fact, result in improved academic performance; or

2. must include documentation that legitimate research available in the literature already demonstrates that the activities to be implemented in the pilot program have resulted in improved student academic performance.

B. The following requirements apply to research to be funded with support fund monies:

1. The activities to be undertaken must meet or exceed the standards established by the American Education Research Association.

2. There must be clear guarantees that the rights of participants will be protected throughout the research activities.

3. There must be a clear correlation between the anticipated results of the research and improved elementary and secondary student academic performance.

4. The applicant must assure that the board will receive interim reports and a comprehensive final report of all research findings.

C. The following requirements apply to pilot programs to be funded with support fund monies.

1. The program must either:

a. include a research component; or

b. include documentation that the design of the pilot program is based upon validated research findings.

2. There must be clear guarantees that the rights of participants in any research component of the pilot program will be protected throughout the program period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3147 (December 2012).

**§2731. Provisions Relative to School Remediation Programs [Formerly LAC 28:XCIII.731]**

A. The population to be served must be clearly identified in the proposal.

B. The need for the remediation of the identified population must be clearly documented by provision of educational performance data acceptable to the board.

C. The location in which the services will be provided must be included in the proposal (e.g., the location of an alternative school setting).

D. If financial or personnel support will be received from any source other than the applicant (e.g., volunteer instructors from the community, "big brother" type support provided by a civic or religious organization, etc.), the source and type of such assistance, including the level of financial support, must be included in the proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3147 (December 2012).

**§2733. Provisions Relative to Pre-school Programs [Formerly LAC 28:XCIII.733]**

A. The population to be served must be clearly identified.

B. The need of the target population for pre-school instruction must be substantiated by test or demographic data acceptable to the board.

C. The certification to be required of instructional personnel must be included in the project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3147 (December 2012).

**§2735. Provisions Relative to Foreign Language Instruction in Elementary and Secondary Schools [Formerly LAC 28:XCIII.735]**

A. The following types of projects are eligible in this constitutional category:

1. programs which offer foreign language instruction designed to improve overall academic performance of students, provided that proposals relying on improved academic performance must include evidence from validated research to support the anticipated improvements;

2. programs designed for a specific target population, provided that projects for such programs must clearly identify the population to be served;

3. expansion of the regular foreign language program offered at the elementary or secondary level in any school system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3147 (December 2012).

## **Chapter 29. Administration of Annual 8(g) Program and Budget**

### **§2901. Procedure for Payment to Support Fund Grantees [Formerly LAC 28:XCIII.901]**

A. The board shall authorize payment to each support fund grantee in accordance with the approved project budget.

B. Each grantee shall submit a claim for reimbursement, in the form prescribed by the board. Grantees may request reimbursement of expenditures on a monthly basis.

C. Claims for reimbursement must conform to the budget approved by the board for each project.

D. Budget amendments which do not exceed 20 percent of the line item of the budget, or 5 percent of the total budget, may be approved routinely by the board staff. Any line item amendment to an approved budget which exceeds 20 percent of the approved line item must be submitted to the board for its approval.

E. Each grantee shall submit to the board a summary report showing all expenditures during the approved project period no later than 60 days after the close of the project period.

F. Any grantee not in compliance with Subsections D or E of this Section shall be required to repay the grant money with interest upon demand of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3147 (December 2012).

### **§2903. Quarterly Report to the Board [Formerly LAC 28:XCIII.903]**

A. The Department shall submit to the board a quarterly report showing all expenditures in each project no later than 30 days after the close of each quarter.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3148 (December 2012).

### **§2905. Mid-Year Progress to Legislature [Formerly LAC 28:XCIII.905]**

A. Each recipient of 8(g) funds (which is not a public or quasi-public entity that is a budget unit of the state) must provide a written report to the BESE office concerning the use of funds and progress on meeting goals and objectives of the project in March.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3148 (December 2012).

### **§2907. Final Programmatic Report [Formerly LAC 28:XCIII.907]**

A. Each support fund grantee shall submit a final programmatic report to the board within 60 days after the close of a project period. The final programmatic report shall include, but not be limited to, the following:

1. benefits achieved by the program;
2. evidence of compliance with timelines established in the project application;
3. data showing the degree of success achieved by the project;
4. feasibility of replication of the project;
5. such other information as may be beneficial to the board in its consideration of continuation of the project.

B. Those 8(g) recipients who have not submitted End of Year Reports on prior year projects as of September 1 shall not receive current year 8(g) funds until reports have been submitted.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3148 (December 2012).

### **§2909. Monitoring and Evaluation of Approved Support Fund Projects [Formerly LAC 28:XCIII.909]**

A. Each project approved for support funds shall be monitored at least once during the project period.

B. The board may elect to conduct monitoring through the use of employees of the board.

C. The board may elect to employ the services of independent monitors to conduct some or all of the monitoring of projects.

D. The board may employ one or more independent consultants to conduct an in-depth evaluation of such projects as may be selected by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3148 (December 2012).

### **§2911. Annual Report of Each Fiscal Year Support Fund Activities [Formerly LAC 28:XCIII.911]**

A. No later than December 31st of each year, the department shall prepare and submit to the board a comprehensive report of all projects funded during the previous fiscal year. The report shall contain such information as may be required by the board. The report shall be submitted to the legislature and the governor at such time as may be deemed appropriate by the board.



AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3148 (December 2012).

## **Chapter 31. Ownership/Production Rights**

### **§3101. Ownership/Production Rights [Formerly LAC 28:XCIII.1101]**

A. Upon termination at the completion of 8(g) funding for a project/program, the state Board of Elementary and

Secondary Education may approve an agency's request to retain equipment purchased with 8(g) funds based on the agency's assurance that the equipment will be used for educational enhancement.

B. All educational products developed using 8(g) funds awarded by the state Board of Elementary and Secondary Education are the property of the board and cannot be distributed for profit without explicit approval from the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:6(A)(10)

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education in LR 38:3148 (December 2012).