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Title 28 EDUCATION

Part I. 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. 17:10 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, R.S. 17:6(A), R.S.17:7(2)(a), R.S. 17:7(3), R.S. 17:7(4), R.S. 17:7(5), R.S. 17:7(6)(a)(i), R.S. 17:7(7), R.S. 17:7(8), R.S. 17:4.1, R.S. 17:43, R.S. 17:348, R.S. 17:6(A)(10), R.S. 17:6(A)(11), R.S. 17:10.5, R.S. 17:1990 and R.S. 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).

§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

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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 recovery school district superintendent. The state superintendent may delegate administrative authority conferred upon him/her by law as to the recovery school district to the recovery school district superintendent, 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 superintendent 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 superintendent 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. 17:21(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).

§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 Office of Citizens with Developmental Disabilities, 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), R.S. 17:4.1, R.S. 17:6(B), R.S. 17:43, R.S. 17:1945, R.S. 36:642(C)(1), and R.S. 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).

§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 superintendent of the recovery school district.

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

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), R.S. 17:6(B), and R.S. 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).

§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

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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 superintendent of the recovery school district (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.

4. Textbook/media/library advisory council:

a. authority—per state statute (R.S. 17:415.1);

b. membership—14 members as follows:

i. one member of the legislature (state senator), recommended by the senate president;

ii. one member of the legislature (state representative), recommended by the speaker of the house;

iii. one member recommended by the governor; and

iv. eleven members, one member recommended by each board member, from the member's assigned category, as follows:

(a). one teacher, grades K-6;

(b). one teacher, grades 7-12;

(c). one teacher (any grade) or coordinator of technology;

(d). two school librarians;

(e). one curriculum supervisor;

(f). two textbook supervisors;

(g). one parent or business representative;

(h). one LEA superintendent; and

(i). one school principal;

c. referrals/responsibilities:

i. Advise the board on policy and procedure issues relating to the textbook adoption process.

ii. Consider all matters referred by the board or the LDE.

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. Proxies shall retain voting privileges. 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. Notices of council meetings shall be distributed to council members by the board staff at least 10 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). 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 Act 131 of the 2008 Regular Legislative Session, the agenda may be amended upon unanimous approval of the members present at a meeting and subject to other provisions of the Act.

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), R.S. 17:6(A)(15), R.S. 17:24.4, and R.S. 17:11.

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).

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 Act 131 of the 2008 Regular Legislative Session, the agenda may be amended upon unanimous approval of the members present at a meeting and subject to other provisions of the Act.

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).

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).

§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.

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.

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).

§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.

EDUCATION

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 ordinarily shall include, but not be limited to, matters dealing with personnel, security measures, prospective litigation, and pending litigation.

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, R.S. 42:17, and R.S. 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).

§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. At-risk student count shall be determined by the following:

i. for those schools or school systems participating in the National School Lunch Program (NSLP) using meal benefits applications for free and reduced price meals, the number of students whose family income is at or below income eligibility guidelines or other guidelines as provided by BESE. The current income eligibility guidelines include those students qualifying to participate in the federal free and reduced price breakfast and lunch program. The fall count is determined by the number of students qualifying for the free and reduced price lunch program during the month of October as reported in the Student Information System (SIS). For any additional required count date(s), the at-risk student count will be those qualifying for free and reduced price lunch as reported in SIS, as of that count date; and

ii. for those schools or school systems participating in an alternate USDA food service program such as provision 2 or community eligibility option (CEO), the percentage rate for free and reduced price lunch will be frozen at the latest available free and reduced price lunch percentage prior to participation in the program and shall be multiplied by the base membership count to determine add-on low income students.

b. English language learner student count shall be determined by the number of students reported in SIS as English language learners.

c. 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.

d. 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.)

e. 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.

f. 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).

§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

§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 *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 2.e-2.f.ii below).

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 Statement, a Small Business Statement, a Public Comments paragraph, a Fiscal and Economic Impact Statement (FEIS), and comparison language (if applicable) to the board recorder for processing.

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

c. After the Fiscal and Economic Impact Statement is approved by the LFO, the board recorder prepares the Notice of Intent in compliance with statutory specifications and submits it to the *Louisiana Register* for publication. 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 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 of Notices of Intent or Rules in the *Louisiana Register* is the tenth of the month.

D. Due to the board meeting schedule, the Fiscal and Economic Impact Statement 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 *Louisiana Register* website and are accessible through links on the BESE website.

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 34:426 (March 2008), amended LR 37:3220 (November 2011), LR 38:3156 (December 2012), LR 39:3267 (December 2013).

§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).