

NOTICE OF INTENT

Board of Elementary and Secondary Education

Bulletin 139—Louisiana Child Care and Development Fund Programs
(LAC 28:CLXV.902 and 903)

In accordance with the provisions of R.S. 17:6(A)(10) and the Administrative Procedure Act (APA), R.S. 49:953(B)(1) et seq., the Board of Elementary and Secondary Education proposes to amend LAC 28:CLXV in Bulletin 139—*Louisiana Child Care and Development Fund Programs*. The proposed revisions repeal and reestablish existing policy to provide reorganization that clarifies and aligns early childhood tracks for early learning centers and family child care providers participating in LA Pathways, and updates definitions. Further, the revisions provide a Family Child Care Staff Track for home-based, family child care providers who opt into Academic Approval and participate in the unified quality rating system and related initiatives. This track will provide the requirements for each level associated with the School Readiness Tax Credits for family child care staff and would incentivize provider participation in the quality rating system, as the tax credits currently incentivize Type III providers. The revision will also ensure that family child care staff and early learning center staff requirements are aligned across all tax credit levels and meet requirements for the purpose of the School Readiness Tax Credit for directors and staff.

Title 28

EDUCATION

Part CLXV. Bulletin 139—Louisiana Child Care and Development Fund Programs

§902. Definitions

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Classroom Track for LA Pathways—professional career ladder registry designed for classroom staff within early learning centers that recognizes individuals based on the educational attainment and commitment to the field.

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Family Child Care Staff Track for LA Pathways—professional career ladder registry designed for family child care providers that recognizes individuals based on the educational attainment and commitment to the field.

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AUTHORITY NOTE: Promulgated in accordance with 45 CFR Part 98, R.S. 17:407.26, and R.S. 47:6101 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, amended LR 43:1281 (July 2017), LR 48:1008 (April 2022), LR 48:

§903. Participation in LA Pathways

Repealed.

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 41:2119 (October 2015), amended LR 42:46 (January 2016), LR 43:1281 (July 2017), LR 44:262 (February 2018).

§903. Participation in LA Pathways

A. An individual working or planning to work in the child care facility industry as a director of a child care facility is eligible to enroll in LA pathways upon successful submission of an application and the required documents to LA pathways.

B. An individual working or planning to work in the child care facility industry as a staff member of a child care facility is eligible to enroll in LA pathways upon successful submission of an application and the required documents to LA Pathways.

C. LA pathways will register child care facility directors and staff according to requirements based on training and education, experience, and professional activities, as approved by the LDE. Participation is voluntary.

D. The state superintendent of education, pursuant to authority delegated by BESE, may waive compliance with a requirement in this Chapter when the superintendent determines that the economic or adverse impact is sufficiently great to make compliance impractical, as long as the health and well-being of the staff and children are not imperiled. When the individual has been determined to have met or exceeded the intent of a requirement, the requirement may be deemed met. The decision to grant or deny a waiver rests with the sole discretion of the state superintendent.

E. Requirements for the Administrator Track for LA Pathways through December 31, 2017:

POSITION	TRAINING AND EDUCATION REQUIREMENTS	EXPERIENCE REQUIREMENTS	PROFESSIONAL ACTIVITY REQUIREMENTS
Assistant Director I	annual training as required by early learning center licensing regulations in LAC 28:CLXV.139	N/A	encouraged to participate in an early childhood professional organization
Assistant Director II	60 clock hours in approved core knowledge CDA subject areas including 6 hours in regulations	minimum six months	encouraged to participate in an early childhood professional organization
Assistant Director III	90 clock hours in approved core knowledge CDA subject areas including 15 hours in approved administrative training categories	minimum one year	encouraged to participate in an early childhood professional organization
Director	as required by early learning center licensing regulations in LAC 28:CLXV.139	as required by early learning center licensing regulations in LAC 28:CLXV.139	encouraged to participate in an early childhood professional organization
Director I	CDA credential or approved early childhood diploma; and 1. 30 clock hours in approved administrative training categories; or 2. related associate degree; or	minimum one year	membership in an early childhood professional organization

	3. 30 hours toward associate degree with four college courses in early childhood or child development.		
Director II	CDA credential or approved early childhood diploma; and 1. 45 clock hours in approved administrative training categories or national administrative credential; or 2. associate degree in early childhood or child development; or 3. related associate degree with four college courses in early childhood or child development; or 4. related bachelor's degree with three college courses in early childhood or child development.	minimum 18 months	membership in an early childhood professional organization and service to the profession such as serving on a board or committee, presenting at a conference, participating as a CDA advisor or mentor, attendance at a conference or professional event
Director III	The administrator certificate*; and 1. CDA credential or approved early childhood diploma; or 2. associate degree in child development or early childhood; or 3. bachelor's degree in early childhood or child development of which three college courses focus on infants and toddlers; or 4. related bachelor's degree with six college courses in early childhood or child development of which three courses focus on infants and toddlers. *In order to receive an administrator certificate, 75 clock hours of instruction in approved administrative training categories are required. Two college courses in approved administration can be substituted for the administrator certificate.	minimum two years	membership in an early childhood professional organization and service to the profession such as serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, or attendance at a conference or professional event
Director IV	The administrator certificate*; and 1. master's degree in early childhood, child development or early childhood administration of which three courses focus on infants and toddlers; or 2. related master's degree with eight college courses in early childhood or child development of which three courses focus on infants and toddlers. *In order to receive an administrator certificate, 75 clock hours of instruction in approved administrative training categories are required. Two college courses in approved administration can be substituted for the administrator certificate.	minimum two years	membership in an early childhood professional organization and service to the profession such as serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event

F. Requirements for the Administrator Track for LA Pathways beginning January 1, 2018:

POSITION	TRAINING AND EDUCATION REQUIREMENTS	PROFESSIONAL ACTIVITY REQUIREMENTS
Director I	CDA credential, early childhood ancillary certificate, or approved early childhood diploma; and 1. 30 clock hours in approved administrative training categories; or 2. related associate degree; or 3. 30 hours toward associate degree with four college courses in early childhood or child development.	membership in an early childhood professional organization
Director II	CDA credential, early childhood ancillary certificate, or approved early childhood diploma; and 1. 45 clock hours in approved administrative training categories or national administrative credential; or 2. associate degree in early childhood or child development; or 3. related associate degree with four college courses in early childhood or child development; or 4. related bachelor's degree with three college courses in early childhood or child development; or 5. meets director qualifications in LAC 28:CLXV.139 and has been the director for at least one year of an early learning center with a 3-star quality rating on July 1 of the calendar year in which credit may be claimed.	membership in an early childhood professional organization and service to the profession such as serving on a board or committee, presenting at a conference, participating as a CDA advisor or mentor, or attendance at a conference or professional event
Director III	1. CDA credential and administrator credential; or 2. early childhood ancillary certificate or approved early childhood diploma and administrator certificate; or 3. associate degree in child development or early childhood and administrator certificate; or 4. bachelor's degree in early childhood or child development and administrator certificate; or 5. related bachelor's degree with six college courses in early childhood or child development and administrator certificate; or	membership in an early childhood professional organization and service to the profession such as serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, attendance at a conference or professional event

	6. meets director qualifications in LAC 28:CLXV.139 and has been the director for at least one year of an early learning center with a 4-star quality rating on July 1 of the calendar year in which the credit may be claimed.	
Director IV	1. master's degree in early childhood, child development or early childhood administration and administrator certificate; or 2. related master's degree with eight college courses in early childhood or child development and administrator certificate; or 3. meets director qualifications in LAC 28:CLXV.139 and has been the director for at least one year of an early learning center with a 5-star quality rating on July 1 of the calendar year in which the credit may be claimed.	membership in an early childhood professional organization and service to the profession such as serving on a board or committee, presenting at a conference, participating as a CDA mentor or advisor, or attendance at a conference or professional event

G. Requirements for the Classroom Track for LA Pathways through December 31, 2017:

POSITION	TRAINING AND EDUCATION REQUIREMENTS	EXPERIENCE REQUIREMENTS	PROFESSIONAL ACTIVITY REQUIREMENTS
Early Learning Center Staff I	as required by early learning center licensing regulations in LAC 28:CLXV.139	N/A	encouraged to participate in an early childhood professional organization
Early Learning Center Staff II	12 clock hours of instruction in approved core knowledge CDA subject areas	minimum six months	encouraged to participate in an early childhood professional organization
Early Learning Center Staff III	30 clock hours of instruction in approved core knowledge CDA subject areas	minimum one year	encouraged to participate in an early childhood professional organization
Early Learning Center Staff IV	60 clock hours of instruction in approved core knowledge CDA subject areas	minimum one year	encouraged to participate in an early childhood professional organization
Early Learning Center Assistant Teacher I	90 clock hours of instruction in approved core knowledge CDA subject areas	minimum one year	encouraged to participate in an early childhood professional organization
Early Learning Center Assistant Teacher II	120 clock hours of instruction in approved core knowledge CDA subject areas	minimum one year	encouraged to participate in an early childhood professional organization
Early Learning Center Teacher I	CDA credential or approved early childhood diploma	minimum one year	encouraged to participate in an early childhood professional organization
Early Learning Center Teacher II	CDA credential or approved early childhood diploma; and 1. 9 CEUs or two early childhood college courses; or 2. 30 hours toward associate degree with four college courses in early childhood or child development; or 3. related associate degree.	minimum two years	membership in an early childhood professional organization and service to the profession such as committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, or advocacy and leadership activities
Early Learning Center Teacher III	1. associate degree in early childhood or child development; or 2. related associate degree with 4 college courses in early childhood or child development; or 3. bachelor's degree in early childhood or child development; or 4. related bachelor's degree with three college courses in early childhood or child development.	minimum two years	membership in an early childhood professional organization and service to the profession such as committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, or advocacy and leadership activities
Early Learning Center Teacher IV	1. bachelor's degree in early childhood or child development of which three college courses focus on infants and toddlers; or 2. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers.	minimum two years	membership in an early childhood professional organization and service to the profession such as committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, or advocacy and leadership activities
Early Learning Center Master Teacher	1. graduate degree in early childhood or child development; or 2. unrelated graduate degree with four early childhood or child development college courses.	minimum two years	membership in an early childhood professional organization and service to the profession such as committee or board membership, service as a CDA advisor or mentor, attendance at a professional conference or event, conference presentation, or advocacy and leadership activities

H. Requirements for the Classroom Track for LA Pathways beginning January 1, 2018 through December 31, 2018:

POSITION	TRAINING AND EDUCATION REQUIREMENTS
Early Learning Center Assistant Teacher	80 clock hours of instruction in approved core knowledge CDA subject areas
Early Learning Center Teacher I	CDA credential or approved early childhood diploma
Early Learning Center Teacher II	1. CDA credential or approved early childhood diploma and nine continuing education units or two early childhood college courses; or 2. 30 hours toward associate degree with four college courses in early childhood or child development; or 3. related associate degree; or

	4. Early Childhood Ancillary Certificate.
Early Learning Center Teacher III	1. associate degree in early childhood or child development; or 2. related associate degree with four college courses in early childhood or child development; or 3. bachelor's degree in early childhood or child development; or 4. related bachelor's degree with three college courses in early childhood or child development; or 5. classified as early learning center teacher I or above by LA Pathways as of December 31, 2017, and demonstrated evidence of eligibility for the staff school readiness tax credit for at least one prior year beginning with 2017.
Early Learning Center Teacher IV	1. bachelor's degree in early childhood or child development of which three college courses focus on infants and toddlers; or 2. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers; or 3. classified as early learning center teacher I or above by LA Pathways as of December 31, 2016, and demonstrated evidence of eligibility for the staff school readiness tax credit in 2017.
Early Learning Center Master Teacher	1. graduate degree in early childhood or child development; or 2. unrelated graduate degree with four early childhood or child development college courses.

I. Requirements for the Classroom Track for LA Pathways beginning January 1, 2019:

POSITION	TRAINING AND EDUCATION REQUIREMENTS
Early Learning Center Assistant Teacher	80 clock hours of instruction in approved core knowledge CDA subject areas
Early Learning Center Teacher I	CDA credential or approved early childhood diploma
Early Learning Center Teacher II	1. CDA credential or approved early childhood diploma and nine continuing education units or two early childhood college courses; or 2. 30 hours toward associate degree with four college courses in early childhood or child development; or 3. related associate degree; or 4. Early Childhood Ancillary Certificate.
Early Learning Center Teacher III	1. associate degree in early childhood or child development; or 2. related associate degree with four college courses in early childhood or child development; or 3. bachelor's degree in early childhood or child development; or 4. related bachelor's degree with three college courses in early childhood or child development; or 5. early childhood ancillary certificate and demonstrated evidence of eligibility for the staff school readiness tax credit for at least one prior year beginning with 2017.
Early Learning Center Teacher IV	1. bachelor's degree in early childhood or child development of which three college courses focus on infants and toddlers; or 2. related bachelor's degree with six early childhood or child development college courses of which three focus on infants and toddlers; or 3. early childhood ancillary certificate and demonstrated evidence of eligibility for the staff school readiness tax credit for at least two prior years beginning with 2017.
Early Learning Center Master Teacher	1. graduate degree in early childhood or child development; or 2. unrelated graduate degree with four early childhood or child development college courses.

J. In order to maintain eligibility for the family child care staff track, family care providers must be registered, have current certification for CCAP issued by LDE in compliance with this Part, and participate full-time in CCAP.

K. Requirements for the Family Child Care staff track beginning July 1, 2022:

POSITION	TRAINING AND EDUCATION
Staff	80 clock hours of instruction in approved core knowledge CDA subject areas
Teacher I	Maintain academic approval for 6 months in the tax year; and 1. CDA or approved early childhood diploma; or 2. CCAP certification as a family child care provider for at least one year within the three years prior to the current tax year, which can only be used for a period not to exceed two years.
Teacher II	Maintain academic approval for 6 months in the tax year; and 1. CDA or approved early childhood diploma, and nine continuing education units or two early childhood college courses; or 2. 30 hours towards associate degree with four college courses in early childhood or child development; or 3. related associate degree; or 4. early childhood ancillary certificate; or 5. certificate of academic approval of a 3 star quality rated family child care program for at least one year on July 1 of the calendar year in which the credit may be claimed.
Teacher III	Maintain academic approval for 6 months in the tax year; and 1. associate degree in early childhood/child development; or 2. related associate degree with four college courses in early childhood/child development; or 3. bachelor's degree in early childhood/child development; or 4. related bachelor's degree with three college courses in early childhood/child development; or 5. early childhood ancillary certificate and eligibility for staff school readiness tax credit for at least one prior year; or 6. certificate of academic approval of a 4 star quality rated family child care program for at least one year on July 1 of the calendar year in which the credit may be claimed.
Teacher IV	Maintain academic approval for 6 months in the tax year; and 1. bachelor's degree in early childhood or child development of which three college courses focus on infants and toddlers; or 2. related bachelor's degree with six early childhood or child development college courses of which three must focus on infant and toddlers; or 3. early childhood ancillary certificate and eligibility for staff school readiness tax credit for at least two prior years; or 4. certificate of academic approval of a 5 star quality rated family child care program for at least one year on July 1 of the calendar year in which the credit may be claimed.
Master Teacher	1. graduate degree in early childhood or child development; or 2. unrelated graduate degree with four early childhood or child development college courses.

L. Qualification for the School Readiness Tax Credit (SRTC) for Child Care Facility Directors and Staff:

1. The department shall provide information necessary for the secretary of the Department of Revenue to determine and/or verify the director and staff levels for earning the SRTC.

2. Child Care Facility Director Levels for SRTC:

LA Pathways Classification	Meets SRTC Requirements
Director I	Level I
Director II	Level II
Director III	Level III
Director IV	Level IV

3. Child Care Facility Staff Levels for SRTC:

LA Pathways Classification	Meets SRTC Requirements
Teacher I	Level I
Teacher II	Level II
Teacher III	Level III
Teacher IV Master Teacher	Level IV

AUTHORITY NOTE: Promulgated in accordance with 45 CFR Parts 98 and 99, and R.S. 17:407.28.6.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 48:

Family Impact Statement

In accordance with section 953 and 974 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Family Impact Statement on rules proposed for adoption, repeal, or amendment. All Family Impact Statements will be kept on file in the state board office which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records.

1. Will the proposed Rule affect the stability of the family? No.
2. Will the proposed Rule affect the authority and rights of parents regarding the education and supervision of their children? No.
3. Will the proposed Rule affect the functioning of the family? No.
4. Will the proposed Rule affect family earnings and family budget? No.
5. Will the proposed Rule affect the behavior and personal responsibility of children? No.
6. Is the family or a local government able to perform the function as contained in the proposed Rule? Yes.

Poverty Impact Statement

In accordance with section 973 of title 49 of the Louisiana Revised Statutes, there is hereby submitted a Poverty Impact Statement on rules proposed for adoption, amendment, or repeal. All Poverty Impact Statements will be in writing and kept on file in the state agency which has adopted, amended, or repealed rules in accordance with the applicable provisions of the law relating to public records. For the purposes of this section, the word “poverty” means living at or below 100 percent of the federal poverty line.

1. Will the proposed Rule affect the household income, assets, and financial authority? No.
2. Will the proposed Rule affect early childhood development and preschool through postsecondary education development? Yes.
3. Will the proposed Rule affect employment and workforce development? Yes.
4. Will the proposed Rule affect taxes and tax credits? Yes.
5. Will the proposed Rule affect child and dependent care, housing, health care, nutrition, transportation, and utilities assistance? No.

Small Business Statement

The impact of the proposed Rule on small businesses as defined in R.S. 49:965.6, the Regulatory Flexibility Act, has been considered. It is estimated that the proposed action is not expected to have a significant adverse impact on small businesses. The agency, consistent with health, safety, environmental, and economic welfare factors has considered and, where possible, utilized regulatory methods in the drafting of the proposed Rule that will accomplish the objectives of applicable statutes while minimizing the adverse impact of the proposed Rule on small businesses.

Provider Impact Statement

The proposed Rule should not have any known or foreseeable impact on providers as defined by HCR 170 of the 2014 Regular Legislative Session. In particular, there should be no known or foreseeable effect on:

1. the staffing level requirements or qualifications required to provide the same level of service;
2. the cost to the providers to provide the same level of service; or
3. the ability of the provider to provide the same level of service.

Public Comments

Interested persons may submit written comments via the U.S. Mail until noon, August 10, 2022, to Shan N. Davis, Executive Director, Board of Elementary and Secondary Education, Box 94064, Capitol Station, Baton Rouge, LA 70804-9064. Written comments may also be hand delivered to Shan Davis, Executive Director, Board of Elementary and Secondary Education, Suite 5-190, 1201 North Third Street, Baton Rouge, LA 70802 and must be date stamped by the BESE office on the date received. Public comments must be dated and include the original signature of the person submitting the comments.

Shan N. Davis
Executive Director

FISCAL AND ECONOMIC IMPACT STATEMENT FOR ADMINISTRATIVE RULES

RULE TITLE: Bulletin 139—Louisiana Child Care and Development Fund Programs (LAC 28:CLXV.902 and 903)

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

The proposed revisions may result in an indeterminable increase in Louisiana Department of Education (LDE) expenditures to contract with a vendor to manage its Louisiana Pathways Child Care Career Development System, which tracks professional development and provides needed data for the distribution of School Readiness Tax Credits (SRTC).

The current contract with Northwestern State University was amended in April 2022 to extend the end date of service from June 30, 2022, to June 30, 2023, at an additional cost of \$367,873. Based on the current numbers of providers opting into the program, the LDE reports that an increase to the contract is not needed at this time. It is possible that large numbers of providers opting into the program could result in a need to increase the contract to accommodate the additional providers. Pathways functions are planned to be eventually rolled into EdLink functionality.

The revisions provide a Family Child Care Staff Track for home-based, family child care providers who opt into Academic Approval and participate in the unified quality rating system and related initiatives. This track will provide the requirements for each level associated with the SRTC for family child care staff and would incentivize provider participation in the quality rating system, as the tax credits currently incentivize Type III providers.

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

The proposed revisions will lead to a decrease in state revenue collections to the extent that family child care providers opting into the academic approval program will now be eligible for the School Readiness Tax Credit (SRTC) director and staff credit. This credit was previously only available to Type III early learning centers. Family child care providers that participate in the quality rating system will qualify for the current SRTC director and staff credit.

To date, 65 family child care providers have opted into the academic approval program for the next year. Eligibility for the SRTC is expected to increase participation, although the extent to which providers will opt into the program is indeterminable.

For informational purposes, the average amount of SRTC director and staff credit claimed per early learning center staff member in 2020 was \$3,127. As of November 2021, 259 family child care providers self-identified to the Louisiana Department of Education, resulting in approximately \$809,893 in total SRTC director and staff credits potentially applied as a result of these revisions.

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

The proposed revisions will benefit participating family child care providers by making them eligible for SRTC tax credits.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

The proposed revisions will not have an effect on competition and employment.

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Deputy Superintendent
1905#

Alan Boxberger
Staff Director
Legislative Fiscal Office