

# *Title 28 Education Bulletin 133*

## *Criteria for School Participation in the Student Scholarship for Educational Excellence Program (Vouchers)*

A constructive critique of BESE promulgated policy with  
recommendations for *specific modification* :

**Louisiana Federation of Teachers**

<http://lft-aft.org>  
@LaFedTeachers

# Regarding this presentation...

- The LFT philosophically and principally opposes school vouchers. Our position has not changed.
- The LFT understands that Act 2 (2012) is law, and this hearing is not the venue for arguments either for or against school vouchers. Those arguments will continue in the appropriate venues.
- However, the LFT firmly asserts its right and its obligation to engage as constructively as possible in the creation of rules that under existing law best serve and protect all children and all citizens.

# §1301. Purpose

## Stated Goals of policy:

- **Create** a common standard for student performance across traditional public charter public, and non public schools;
- **Minimize** bureaucracy and complexity;
- **Uphold** public trust;
- **Protect** children's health and welfare.

**We believe that these 4 stated goals raise a number of serious questions, which include:**

1. Does this policy achieve its stated purposes, and do these stated purposes complement or conflict with each other?
2. And, does the policy comply with the letter and spirit of existing law?

# Conflict: If everything required can be waived then what is really required?

*1301 A. The Student Scholarships for Educational Excellence Act **requires** the LDE to “develop criteria for [school] participation that includes an accountability system for participating students at participating schools.” . . .*

*1301 B. . . . In applying these criteria, the state superintendent may waive any provisions of this Chapter . . .*

Note: Bulletin 133, which consists of less than 4 full pages, uses “may” no less than 13 times. Often, “may” is used in a manner that plainly, dramatically weakens the stated requirement or restriction

# §1301 A vs. §1301 B

*Act 2 requires LDE to promulgate rules to implement the provisions of the Act.*

*However, 1301“B” authorizes the waiver of all the rules promulgated by the Superintendent, the head of the agency that is required enforce the rules in the first place.*

*In addition, blanket waiver authority is provided limitations or guidance from the governing body.*

**LFT recommendation re: 1303 B: BESE should require the creation and publication of a formal waiver process. BESE should require that waiver discussions occur during advertised public meetings. No waiver should be provided absent formal action by BESE.**

# **All affected parties are stakeholders**

*§1301 C. Any revisions to this Chapter shall be referred to the Nonpublic Schools Council for review and comment prior to consideration by the board.*

## **LFT Recommendation re: 1301C:**

Since public schools are impacted by revisions to this policy as well as non-public schools, public school stakeholders should be provided an opportunity to review and comment on said policy. The Accountability Commission, Practitioners Committee, and the Superintendents Advisory Council should be added as required reviewers.

In addition, once BESE has determined that proposed changes are not substantive in nature, by a vote of the majority of the Board members, it may approve revisions without referral to any other body.

## §1303. Participation Criteria for Nonpublic Schools

- A. To participate in the scholarship program, nonpublic schools shall satisfy the criteria within this Chapter in addition to criteria for participation already established in law. Schools that do not meet these criteria ~~may~~ shall be declared ineligible to participate in the program. Ineligibility to participate ~~may~~ shall result in the school enrolling no new students for one or more years, enrolling no new students permanently, or ending all participation immediately.

**LFT Recommendation re: 1303:** Change “may” to “shall”. The policy demands that satisfaction of the established criteria is required for participation. Permissive language that follows effectually neuters the requirement.

## **§1303 A. To participate in the scholarship program...**

Focus Area	Standard
Enrollment	Participating schools shall indicate the number of students they are able and willing to serve. If the increase to total student enrollment would result in total student enrollment that is greater than 125 percent of their total student enrollment in the previous school year or 50 students more than were enrolled in the previous school year, including pre-kindergarten enrollment, the LDE shall <u>not</u> consider granting the request. <del>after a review of parent demand (demonstrated through the student application process) and the school's demonstrated capacity to effectively serve such students.</del>

**LFT Recommendation re: 1303A Focus Area Enrollment: Add “not”. Based upon decisions that had already been made prior to the promulgation of policy, the LDOE does not appear to have the capacity to address whether a school has or does have the “capacity” to serve more students than allowed policy.**



## §1303 A. To participate in the scholarship program...

Focus Area	Standard
Financial Practice	<p>Participating schools shall comply with the following rules regarding financial practice. Violations <del>may</del> <u>shall</u> result in a school being declared ineligible to participate.</p> <p><i>N.B.</i> Act 2 requires that LDE “place any participating school that fails to comply with the audit provisions pursuant to R.S. 17:4022(3) on probation for a period of one year <b>during which such school shall not be permitted to enroll additional scholarship recipients.</b>”</p>

**LFT Recommendation re: 1303A Focus Area Financial Practice: Change “may” to “shall” in the interest of upholding the public trust.**

## §1303 A. To participate in the scholarship program...

Financial Practice	<i>Annual Independent Scholarship Audit -</i> The LDE shall publish guidance as to the contents of the annual independent scholarship audit . . . Schools that do not obtain an audit or do not submit the audit according to a timeline established by the LDE <del>may</del> <u>shall</u> be <del>incur penalties including being declared</del> ineligible to participate.
--------------------	---

**LFT Recommendation re: 1303A Focus Area: Financial Practice: Change “may” to “shall” and strike weakening language in the interest of upholding the public trust.**

## §1303 A. To participate in the scholarship program...

Focus Area	Standard
Student Mobility	In participating schools, the LDE <del>may</del> <u>shall</u> investigate instances in which the rate of students remaining enrolled from the beginning of one school year to the next school year falls short of the average of all participating schools by a significant percentage. Schools with exaggerated, repeated, or uncorrected patterns of low relative rates of continued enrollment <del>may</del> <u>shall</u> be instructed to enroll no new students for one year or to fully end participation.

**LFT Recommendation re: 1303A Focus Area: Student Mobility: Change “may” to “shall” in the interest of upholding the public trust and protecting the health and welfare of all students.**

## §1303 A. To participate in the scholarship program...

Focus Area	Standard
Health, Safety, and Welfare of Students	The state superintendent <del>may</del> <u>shall</u> immediately declare a school ineligible to participate if the school's continued participation endangers the academic welfare, health, or safety of children.

**LFT Recommendation re: 1303A Focus Area: Welfare of Students: Change “may” to “shall” in the interest protecting the health and welfare of all students. If students are determined to “endanger” children, anything less than a requirement to terminate eligibility is a violation of the public trust.**

## §1305 Accountability System for Participating Nonpublic Schools

- A. ...
- ~~B. Within the accountability system, the state superintendent may adjust individual numeric performance targets and thresholds to accommodate changing policies and circumstances outside the accountability system.~~ In order to comply with R.S. 17:4015(9) no performance targets and thresholds may be adjusted by any elected or appointed official in order to accommodate changing policies and circumstances outside of the accountability system except by an act of the legislature.

**LFT Recommendation re: 1305B: Strike existing language and add underlined.  
The LFT believes that this change expresses the intent of the law .**

## §1305 Accountability System for Participating Nonpublic Schools

C. ~~Because~~ Despite the fact that some schools are larger participants than others in the program, ~~and thus take on a larger share of the public trust,~~ accountability criteria shall not vary depending on the number of scholarship students enrolled in the school as of October 1 of each academic year, as follows.

**LFT Recommendation re: 1305C: Strike existing language and add underlined in the interest of upholding the public trust. We believe the public trust is not simply relative to or affected by the amount of taxpayer dollars invested in such a program. The public trust is, and has been, eroded by the proverbial “thousand cuts.”**

## §1305 Accountability System for Participating Nonpublic Schools

D. As nonpublic schools approved by the board in accordance with Article 8, Section 4 of the Louisiana State Constitution, all participating schools shall adopt and continue to implement common core curricula aligned with state content standards in compliance with *Bulletin 741 - Louisiana Handbook for School Administrators*, §2301. Standards and Curriculum in the instruction of all participating scholarship recipients. ~~demonstrate a sustained curriculum of quality at least equal to that prescribed for similar public schools.~~ In accordance with R.S. 17:11 and this chapter, the LDE will ~~periodically~~ annually determine whether the nonpublic school is maintaining such quality through onsite visits, inspection of curriculum materials, and inspection of audit materials to ensure purchase of appropriate common core curriculum resources.

**LFT Recommendation re: 1305D: Strike existing language and add underlined in the interest of upholding the public trust, transparency, protection of the welfare of all students, and in support of full meaningful, accountability.**

Number of Participating Students	Means of Academic Numeric Measurement and Reporting
<del>Average of 0-9.9 participating students per K-12 grade in the school and fewer than 40 students enrolled in tested grades—</del>	Per state and federal law, state test scores will be reported publicly for the entirety of the scholarship program student cohort. <u>LDE shall protect the identity of all participating students in their publication.</u> <del>if the school has 10 or more participating students taking tests, as well as for any grade level with 10 or more participating students taking tests.</del>
<del>Average of <math>\geq</math>10 participating students per K-12 grade in the school or 40 or more students enrolled in tested grades—</del>	Per state and federal law, state test scores will be reported publicly for the entirety of the scholarship program student cohort. <u>LDE shall protect the identity of all participating students in their publication.</u> <del>if the school has 10 or more participating students taking tests, as well as for any grade level with 10 or more participating students taking tests. . . .</del>
<b>LFT Recommendation re: 1305D (Table): Strike existing language and add underlined to protect the public trust and provide full transparency.</b>	
Louisiana Federation of Teachers	



However, all of the recommended modifications to 1305 B,C, D and the table which followed would be unnecessary if the accountability standards applied to public schools were to be applied to all schools that receive public funding. Until such occurs, assessments and comparisons based upon such assessments will be suspect at best.

# §1305 Accountability System for Participating Nonpublic Schools

## E. Nonpublic Schools that Receive Scholarship Cohort Indexes

1. ...

2. ...

3. In accordance with the Louisiana Constitution, the board shall ensure that approved nonpublic schools have adopted and are implementing common core curricula aligned with state content standards in compliance with *Bulletin 741 - Louisiana Handbook for School Administrators, §2301. Standards and Curriculum* in the instruction of all participating scholarship recipients. ~~to maintain a curriculum of quality at least equal to that prescribed for similar public schools and periodically determine whether the nonpublic school is maintaining such quality.~~ If, in the process of annual ~~such a periodic~~ review, or at any other time, a participating school is found to have demonstrated gross or persistent lack of basic academic competence, the school ~~may incur penalties including ineligibility~~ shall be ineligible to participate ~~or ineligibility to accept new students.~~

## Policy enhancement to uphold the public trust

### **A process for permanent revocation of eligibility:**

In cases of gross negligence, and extreme willful violations of the criteria and accountability system, organizations and/or individuals should be deemed permanently ineligible. Moreover, mere reorganization under a different name with more than 50% of the same agents/partners participating at the time of application for participation in the scholarship program should not qualify a permanently banned organization for participation. This addition would fit neatly within the “Health Safety and Welfare” section of §1303.

### **The impact of recent changes to Non-Public School Approval:**

Under changes approved by BESE just last week, some nonpublic schools will be allowed to bypass the school approval process by showing “evidence” of accreditation by a myriad of yet unknown accreditation agencies. This, combined with the current “accountability” standards of Bulletin 133, opens the door for abuse.

# Continued enhancements to support the policies stated purposes

## 1. "Common Standards":

- By merely requiring "curriculum of quality at least equal to that prescribed for similar public schools" the policy would not ensure or support "common" standards. First, the policy fails to set out parameters which would indicate a curricula was "equal to" the that of public schools, while failing to define what a "similar" public school is. Despite the feverish pace of department discourse regarding alignment of curriculum with tests, such alignment is left to the whim of providers within Bulletin 133.
- The changes suggested by LFT help to ensure that the goal of "common" standards is actually achieved. Furthermore, the changes would carry over the positive impacts of curricula requirements to voucher participants, improving the quality of instruction and contributing to student achievement in an across the board manner.

## 2. “Minimize Bureaucracy”:

- How admirable this is as a goal is clearly relative to the definition of bureaucracy. The creation of clear, defensible rules requires the capacity for enforcement.
- For example, while LDOE is “all in” regarding Common Core Standards for our public schools, this commitment is forgotten when considering education policy for voucher recipients.

### 3. Uphold Public Trust:

- Under the promulgated policy, while the money appears to follow the child, the accountability certainly does not. Our suggested changes could help to correct some of the problems inherent to such an education adventure.
- Moreover, the suggested changes attempt to address a fatal flaw of the policy: **allowance for waiver of any and all of its provisions by the State Superintendent.** Additionally, suggested changes attempt to address the policy's plague of "mays" (used 13 times in 4 pages), which guarantees disparate or perceptions of disparate treatment.

#### 4. Protecting Child Health and Welfare:

- Changes proposed by LFT during this presentation are intended to help ensure that the Department's commitment to the health and welfare of children is clearly communicated and, quite frankly, unwaiverable. The changes proposed are intended to ensure that ineligibility will occur as a result of child endangerment.