

What you need to know: FAQs about the “Red Tape” act

“Because we respect the legislative process and the rule and value of law, the LFT filed suit on July 1, 2010 in the 19th Judicial District Court challenging the constitutionality of Act 749 (“Red Tape Reduction and Local Waiver Empowerment Program”).”

---Steve Monaghan, LFT President

☆ What can be waived under Act 749?

Any provision of education law or any BESE rule, regulation, or policy that is applicable to public schools and to public school officers and employees can be waived under Act 749 (HB 1368). A waiver may be granted for any combination of such laws, rules,

regulations, or policies, including but not limited to those related to instructional time, curriculum, funding, personnel, student-to-personnel ratios, and student support.

☆ What statutes and policies cannot be waived?

School nutrition for students; free transportation for students; access to alternative education for suspended or expelled students; certified personnel evaluation; any limitation or restriction on outsourcing of food, clerical, custodial, or paraprofessional services shall not be waived. Laws, rules, and regulations which are not waived for charter schools.

Laws that are not waived for charter schools:

- | | | |
|--|---|---|
| (1) School entrance age, R.S. 17:222. | (12) Teaching re: the Federalist Papers and the Declaration of Independence, R.S. 17:268. | property, Part II of Chapter 10 of Title 38 of the Louisiana Revised Statutes of 1950. |
| (2) Corporal punishment and suspension of students, R.S. 17:223. | (13) Teaching re: free enterprise, R.S. 17:274. | (20) Code of Governmental Ethics, R.S. 42:1101 et seq., with the exception of R.S. 42:1119 as it applies to any person employed by a charter school prior to August 15, 2003. |
| (3) Expulsion of students, R.S. 17:224. | (14) Teaching re: civics, R.S. 17:274.1. | (21) Electronic communication by an employee at a school to a student enrolled at that school, R.S. 17:81(Q). |
| (4) School year, R.S. 17:154.1(A)(1) & 236. | (15) Teaching re: sex, R.S. 17:281. | (22) Teaching re: the state's safe haven relinquishments law, R.S. 17:81(R). |
| (5) Attendance reporting, R.S. 17:232. | (16) Religious liberty of students, R.S. 17:2115 et seq. | (23) Inspection and operation of fire safety and prevention equipment, R.S. 17:81(S). |
| (6) Admission of home study students, R.S. 17:236.2. | (17) Pupil assessment, R.S. 17:24.4. | |
| (7) Unauthorized use of electronic communication devices, R.S. 17:239. | (18) Any school and district accountability system required by law of a public school of similar grade or type. | |
| (8) Smoking, R.S. 17:240. | (19) Public bids for the erection, construction, alteration, improvement, or repair of a public facility or immovable | |
| (9) Open meetings, R.S. 42:4.1 et seq. | | |
| (10) Public records, R.S. 44:1 et seq. | | |
| (11) Teaching re: the United States Constitution, R.S. 17:261. | | |

Regulations that may not be waived:

- | | | |
|---------------------------------------|---|---|
| (1) Building maintenance. | (8) The possession and safe use of weapons and hazardous materials. | (13) Drug use prevention. |
| (2) Facility accessibility. | (9) Adolescent health initiatives and school health centers. | (14) Eye safety and the use of protective goggles. |
| (3) Asbestos detection and abatement. | (10) Hearing /vision screenings. | (15) Missing children identification procedures. |
| (4) The Sanitary Code. | (11) Immunizations /health records. | (16) Teacher certification, except as provided in R.S. 17:3991(C)(6). |
| (5) Pesticide use and safety. | (12) Communicable disease prevention. | (17) School and district accountability system. |
| (6) Fire safety. | | |
| (7) Safe work environments. | | |

☆ How does the waiver process work?

Any governing authority of any public elementary or secondary school may request from BESE a waiver for any school, any combination of schools, or all schools under its jurisdiction, regardless of school performance.

Schools cannot be included in waiver requests unless

a majority of the classroom teachers employed in the school vote in favor of the waiver by secret ballot (the law does not specify how these elections are to occur). A waiver request submitted to BESE must include the following:

- (1) *Identifies the specific laws, rules, regulations, and policies from which waiver is sought.*
- (2) *Identifies the school or schools that will be covered by the waiver.*
- (3) *Describes the policies and procedures that will be instituted as a substitute for the waived provisions.*
- (4) *Describes how the proposed waiver will accomplish all of the following:*
 - (a) *Increase the quality of instruction for students*
 - (b) *Improve the academic achievement of students*
 - (c) *Improve teaching effectiveness within schools*
- (5) *Describes, for each school year, specific, measurable educational goals and the methods to be used annually to measure progress in meeting such goals.*

☆ What are the implications for schools which are academically unacceptable under the LA School Accountability Program?

Districts requesting waivers for schools which are academically unacceptable must agree to specific terms in order the waiver to be approved by BESE. Agreement to these terms allows the district to

retain control of the school for up to four years, instead of transfer to the RSD. These terms include that the districts do the following:

- (1) *Ensure the effectiveness of the school's teachers.*
- (2) *Ensure the improvement of quality of instruction and student academic achievement by implementing one of the following four intervention options at each low-performing school covered by the waiver:*
 - (a) **Turnaround:** *Put in place new leadership and a majority of new staff, new governance, and improved instructional programs, and provide the school with sufficient operational flexibility such as the ability to select staff, control its budget as approved by the school's governing authority, and increase learning time.*
 - (b) **Restart:** *Convert the school to a charter school. However, every teacher employed in such school prior to its conversion to a charter school, who has been determined to be effective in accordance with the provisions of Part II of Chapter 39 of Title 17 of the Louisiana Revised Statutes of 1950, shall be given the option to remain at the school or to be reassigned by the governing authority to another school under its jurisdiction.*
 - (c) **School Closure:** *Close the school and place its students in a high-performing school within the district.*
 - (d) **Transformation:** *Hire a new principal and implement a suite of best practices including comprehensive instructional management reform and measures of effective teaching. The board shall not grant a waiver to a district that proposes to use this option for more than fifty percent of the low-performing schools covered by the waiver.*
- (3) *A district that has implemented one or more of the interventions described in Paragraph (2) of this Subsection for its low-performing schools in the two academic years immediately preceding the waiver application is not eligible to receive a waiver for such schools unless both of the following apply:*
 - (a) *The school has met its statewide accountability growth target or surpassed the statewide growth average during such two-year period of implementation.*
 - (b) *The district agrees to implement any remaining conditions of school intervention as required by the board.*

☆ What is BESE's role?

BESE is authorized to approve, approve with modifications, or disapprove waivers submitted to them pursuant to Act 749. Waivers shall be effective for up to four years. BESE is mandated to terminate waivers if it is determined that the performance of any school or schools has been inadequate, or if the waiver is no longer necessary to achieve its original purpose.

In addition, BESE must submit a report to the House and Senate Education Committees by March 1 of every year. This report must detail the uses of the waivers granted, whether waivers increased quality of instruction or improved academic achievement, and if there are any recommendations for legislative changes to any provision of law.