

2018 Regular Session

HOUSE BILL NO. 766

BY REPRESENTATIVES PIERRE, BAGNERIS, BOUIE, TERRY BROWN, CARMODY,  
GARY CARTER, COX, HORTON, JAMES, JEFFERSON, TERRY LANDRY, JIM  
MORRIS, PYLANT, SMITH, AND THOMAS

1 AN ACT

2 To enact R.S. 17:173 and 3996(B)(45), relative to behavioral health services for students;  
3 to provide relative to behavioral health services provided to students when requested  
4 by the student's parent or legal guardian; to provide for definitions; to provide for  
5 policies adopted by public school governing authorities; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:173 and 3996(B)(45) are hereby enacted to read as follows:

9 §173. Behavioral health services for students

10 A.(1) A public school governing authority shall not prohibit a behavioral  
11 health provider from providing behavioral health services to a student at school  
12 during school hours if the student's parent or legal guardian requests such services  
13 from the provider.

14 (2) Not later than January 1, 2019, each public school governing authority  
15 shall adopt a policy to implement the provisions of this Section and such policy, at  
16 a minimum, shall provide that:

17 (a) A behavioral health provider who provides services pursuant to this  
18 Section shall maintain general liability insurance coverage in an amount not less than

1 one million dollars per occurrence and one million dollars per aggregate and provide  
2 a certificate of insurance naming the public school as the certificate holder.

3 (b) A behavioral health provider shall complete a criminal background check  
4 conducted by the Louisiana State Police and shall pay all related costs.

5 (c) Behavioral health services shall be permitted during school hours if the  
6 student's parent or legal guardian presents a behavioral health evaluation performed  
7 by an evaluator chosen by the parent or legal guardian and the evaluation indicates  
8 that the services are necessary during school hours to assist the student with  
9 behavioral health impairments that the evaluator determines are interfering with the  
10 student's ability to thrive in the educational setting. A behavioral health evaluation  
11 presented by the parent or legal guardian of a student shall not be construed as an  
12 independent educational evaluation for purposes of determining if a student meets  
13 the criteria established for eligibility for special education and related services.

14 (d) Behavioral health services may be provided during instructional time in  
15 English, reading, mathematics, and science if the public school governing authority  
16 and the behavioral health provider agree that it is in the best interest of the student.

17 (e) A public school governing authority shall not enter into a contract or an  
18 exclusive agreement with a behavioral health provider that prohibits the parent or  
19 legal guardian from choosing the behavioral health provider for the student.  
20 However the provisions of this Subparagraph shall not impair any extant contract on  
21 the effective date of this Section, or the renewal thereof.

22 (f) The cost of all behavioral health services provided to a student shall be  
23 the sole responsibility of the parent or legal guardian, individually or through an  
24 applicable health insurance policy, Medicaid, or other third-party payor, other than  
25 the public school governing authority, that has made funds available for the payment  
26 for the services provided.

27 (g) While on a school campus, a behavioral service provider shall comply  
28 with, and abide by, the terms of any Individualized Education Plan, Individualized  
29 Accommodation Plan, Section 504 Plan, Behavior Management Plan, or  
30 Individualized Health Plan applicable to a student who is a patient of the provider.

1           The services furnished by a provider shall be incorporated into a written treatment  
2           plan applicable to a student.

3           (h) The parent or legal guardian of a student receiving services from a  
4           behavioral service provider shall be required to execute a "consent to release  
5           information form" between the provider and the public school governing authority.

6           (i) A public school governing authority shall establish reporting requirements  
7           for a behavioral health provider related to the student's progress and student and  
8           school safety concerns as related to the student's educational program.

9           (j) A public school governing authority may establish sanctions, including  
10          termination of a provider's authorization to provide services on any school campus,  
11          against a behavioral health provider for failure to comply with the governing  
12          authority's policy.

13          (3) The failure of a public school governing authority to adopt a policy shall  
14          not be cause to prohibit the provision of behavioral health services to a student as  
15          provided in this Section.

16          B. For purposes of this Section, the following terms shall have the following  
17          meanings:

18          (1) "Behavioral health provider" shall mean a provider who is licensed by  
19          the Louisiana Department of Health or a health profession licensing board and is in  
20          good standing to provide behavioral health services in Louisiana including but not  
21          limited to a psychiatrist, psychologist, medical psychologist, licensed specialist in  
22          school psychology, marriage and family therapist, professional counselor, clinical  
23          social worker, or a behavioral health provider organization licensed to provide  
24          behavioral health services in Louisiana.

25          (2) "Behavioral health services" shall include but not be limited to individual  
26          psychotherapy, family psychotherapy, psychotropic medication management,  
27          community psychiatric support and treatment, and crisis intervention.

28          (3) "Evaluator" shall mean a licensed psychiatrist, psychologist, medical  
29          psychologist, licensed specialist in school psychology, professional counselor,  
30          marriage and family therapist, or clinical social worker who is certified by the

1 respective board of examiners in Louisiana to provide necessary evaluations and who  
2 is not an employee of the public school governing authority or the state Department  
3 of Education.

4 (4) "Behavioral health evaluation" shall include but not be limited to the  
5 following criteria:

6 (a) Diagnosis.

7 (b) Type of intervention.

8 (c) Length of intervention.

9 (d) Identification of a student's goals.

10 (e) Identification of impact of student behavior on a student's educational  
11 program.

12 C. Nothing in this Section shall be construed to supersede the authority of  
13 a student's Individualized Education Program Team or Section 504 Committee to  
14 determine appropriate services for a student pursuant to applicable federal and state  
15 law.

16 \* \* \*

17 §3996. Charter schools; exemptions; requirements

18 \* \* \*

19 B. Notwithstanding any state law, rule, or regulation to the contrary and  
20 except as may be otherwise specifically provided for in an approved charter, a  
21 charter school established and operated in accordance with the provisions of this  
22 Chapter and its approved charter and the school's officers and employees shall be  
23 exempt from all statutory mandates or other statutory requirements that are  
24 applicable to public schools and to public school officers and employees except for  
25 the following laws otherwise applicable to public schools with the same grades:

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(45) Behavioral health services for students, R.S. 17:173.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_