

Regular Session, 2012

HOUSE BILL NO. 1173

BY REPRESENTATIVE CARTER

SCHOOLS: Provides relative to the state special schools

1 AN ACT

2 To amend and reenact R.S. 17:43, 46(A)(1)(b), (B), (D), (E)(1), (2)(d), and (4)(b) and (c),  
3 (G)(1)(a)(iii), (I), (N)(2), (P), and (Q), 47(A), (B) and (D)(1)(a) and (6)(a), (b), (c),  
4 and (d), 48(A) and (B), 49(A) and (B), 348(A) and (B), and 1945 and R.S.  
5 36:642(C)(1) and 648.1 and to repeal R.S. 17:4.1 and 348(D) and (E) and 1945(C)(4)  
6 and (5); provides relative to special education; provides relative to the administration  
7 and supervision of Louisiana special schools; schools and programs; and to provide  
8 for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 17:43, 46(A)(1)(b), (B), (D), (E)(1), (2)(d), and (4)(b) and (c),  
11 (G)(1)(a)(iii), (I), (N)(2), (P), and (Q), 47(A), (B) and (D)(1)(a) and (6)(a), (b), (c), and (d),  
12 48(A) and (B), 49(A) and (B), 348(A) and (B), and 1945 are hereby amended and reenacted  
13 to read as follows:

14 §43. Special schools defined; benefits for certificated teachers; legislative policy  
15 A. It is declared to be legislative policy that the Louisiana special schools,  
16 which include the Louisiana Schools for the Deaf and Visually Impaired and the  
17 Louisiana Special Education Center for the blind, deaf, and spastic students, and the  
18 special schools comprising Special School Programs, ~~District Number One~~, operated  
19 and maintained as a part of the public educational system by the Louisiana  
20 Department of Education, ~~State Board of Elementary and Secondary Education~~  
21 ~~under the provisions of Section 3, Article VIII, Louisiana Constitution of 1974~~, shall

1 provide all benefits, privileges, rights, and powers as provided for certificated  
2 teachers in the public elementary and secondary schools in the interest of statewide  
3 uniformity of administration of teacher welfare benefits, including but not limited  
4 to the benefits enumerated in this Part.

5 B. As used in this Part When reference is made in this Part to "special  
6 schools", the term includes all Louisiana special schools under the State Board of  
7 Elementary and Secondary Education in the Special School District, and all schools  
8 or educational programs in Special School Programs, operated by the Louisiana  
9 Department of Education. District Number One and all the special schools  
10 comprising said district. When reference is made in this Part to a particular school,  
11 the Louisiana Schools for the Deaf and Visually Impaired, and the Louisiana Special  
12 Education Center, shall be considered separate schools, and the schools or programs  
13 in Special School Programs shall be considered one school. When reference is made  
14 in this Part to Special School District teachers, unless otherwise specified, the word  
15 "teacher" means any certified employee in a special school who holds a teacher's  
16 certificate and whose legal employment requires certification under the regulations  
17 of the State Board of Elementary and Secondary Education or of any certification  
18 authority established by law.

19 \* \* \*

20 §46. Sabbatical leave program

21 A.(1)

22 \* \* \*

23 (b) As used in this Subpart, the words "teacher" or "teaching staff" shall  
24 include any social worker, guidance counselor, school nurse, audiologist, educational  
25 diagnostician, speech-language pathologist, or school psychologist employed by a  
26 special school who holds the appropriate valid professional ancillary certificate  
27 issued by the state Department of Education and who has served in the special for  
28 the number of years required for probationary teachers to attain tenure. For a school

1 nurse, a professional ancillary certificate means a Type A, Type B, or Type C  
2 certificate.

3 B. Applications for sabbatical leave shall be made on a form to be provided  
4 by the superintendent of the ~~special school where the teacher is employed~~ Special  
5 School District. Applications shall be sent to the superintendent of the Special  
6 School District by registered or certified mail at least sixty days preceding the  
7 beginning of the semester of the school year for which leave is requested, except  
8 that, where a teacher has become sick during a semester and requests medical leave  
9 for the purpose of recuperating from such sickness, it shall be sufficient if the  
10 application is mailed thirty days before the date upon which the requested leave is  
11 to commence.

12 \* \* \*

13 D. Every applicant shall be notified by the superintendent of the ~~special~~  
14 ~~school~~ Special School District in writing within sixty days after the final day for the  
15 filing of the application whether the application has been granted ~~by the board~~ or  
16 rejected; where the application is for medical leave from sickness the superintendent  
17 shall notify the applicant within thirty days from the date of the filing of the  
18 application whether the application has been granted or rejected or if further medical  
19 examination, as permitted by this Section, is required. If the application has been  
20 rejected, the reasons for such rejection shall be specified.

21 E.(1) No person whose application for sabbatical leave has been granted  
22 shall be denied such leave except as otherwise provided in this Section.

23 (2)

24 \* \* \*

25 (d) The semesters spent in active service in the ~~parish system~~ special school  
26 from which leave is requested.

27 \* \* \*

28 (4)

29 \* \* \*

1 (b)(i) If the superintendent ~~board~~, upon review of the application, questions  
 2 the validity or accuracy of the certification, ~~the board~~ he may require the applicant,  
 3 as a condition for continued consideration of the application, to be examined by a  
 4 licensed physician selected by the ~~board~~ superintendent. In such a case, the ~~board~~  
 5 special school employing the applicant shall pay all costs of the examination and any  
 6 tests determined to be necessary. If the physician selected by the superintendent  
 7 ~~board~~ finds medical necessity, the leave application shall be granted.

8 (ii) If the physician selected by the ~~board~~ superintendent disagrees with the  
 9 certification of the physician selected by the applicant, then the special school  
 10 employing the applicant ~~board~~ may require the applicant, as a condition for  
 11 continued consideration of the application, to be examined by a third licensed  
 12 appropriate physician whose name appears next in the rotation of physicians on a list  
 13 established by the local medical society for such purpose ~~and maintained by the~~  
 14 ~~school board~~. All costs of an examination and any required tests by a third doctor  
 15 shall be paid by the ~~board~~ special school employing the applicant. The opinion of  
 16 the third physician shall be determinative of the issue.

17 (c) The opinion of all physicians consulted as provided in this Paragraph  
 18 shall be submitted to the ~~board~~ superintendent in the form of a sworn statement, as  
 19 referenced in R.S. 14:125.

20 \* \* \*

21 G.(1)(a) Every person on medical leave is prohibited from undertaking any  
 22 gainful employment during such leave unless all of the following conditions are met:

23 \* \* \*

24 (iii) The ~~board~~ superintendent of the Special School District authorizes such  
 25 part-time work.

26 \* \* \*

27 I. Any person who fails to comply with the provisions of Subsections G and  
 28 H of this Section may have his leave terminated by the superintendent of the Special  
 29 School District at any time, except where noncompliance is due to conditions which

1 would have constituted sufficient grounds for failing to perform his duties had he  
2 been in active service.

3 \* \* \*

4 N.

5 \* \* \*

6 (2) The superintendent of the Special School District ~~board~~ may grant such  
7 additional leave or compensation as ~~it~~ he may establish and fix in the best interest of  
8 the special school.

9 \* \* \*

10 P. The ~~board~~ superintendent of the Special School District may grant leaves  
11 of absence, without pay, for periods not exceeding one year, to any regularly  
12 employed teacher or other employee, who requests such leave in writing, whenever  
13 in the discretion of the ~~board~~ superintendent such leave is in the best interests of the  
14 special school. The granting of such leaves shall not affect any tenure rights which  
15 the applicant may have acquired prior thereto.

16 Q. Each person granted sabbatical leave shall sign an agreement or contract  
17 with the ~~board~~ superintendent of the Special School District stipulating that, as a  
18 condition of his sabbatical leave and in order to be eligible for compensation during  
19 such leave, he will return to service for one semester for each semester of leave  
20 following the expiration of his leave in the special school granting the leave. Should  
21 a person taking sabbatical leave fail to return to service in the special school granting  
22 leave or one semester for each semester of leave following the expiration of such  
23 leave for any reason other than incapacitating illness as certified by two physicians,  
24 that person shall forfeit all compensation received during the leave period, provided  
25 however, the ~~board~~ superintendent may waive the provisions of this Section in  
26 accordance with the prepublished criteria if ~~it~~ he deems to be in the best interest of  
27 the special school to do so. No such waiver shall favor or discriminate against any  
28 employee or applicant because of his job description, age, race or sex.

29 §47. Sick and personal leave

1           A.(1) All teachers ~~and superintendents~~ employed by the special schools of  
2 this state shall be entitled to and shall be allowed a minimum of ten days absence per  
3 school year because of personal illness or because of other emergencies, without loss  
4 of pay. Such sick leave when not used in any year shall be accumulated to the credit  
5 of the teacher ~~or superintendent~~ without limitation. Provided that when a teacher is  
6 absent for six or more consecutive days because of personal illness, he shall be  
7 required to present a certificate from a physician certifying such illness; provided,  
8 further that the ~~board~~ superintendent of the Special School District is authorized to  
9 adopt such rules and regulations as are necessary relative to the use of such sick  
10 leave, either current or accumulated, for emergencies. The ~~board~~ superintendent may  
11 grant additional sick leave, without loss of pay, or with such reduction of pay as ~~it~~  
12 he may establish and fix.

13           (2) The minimum of ten days of sick leave provided in this Subsection shall  
14 be allowed based on a teacher ~~and superintendent~~ beginning work at the beginning  
15 of a school year. In the case of a teacher ~~or superintendent~~ who begins work in the  
16 first month of a school year, ten days shall be allowed; in the case of a teacher ~~or~~  
17 ~~superintendent~~ who begins work in the second month of a school year, nine days  
18 shall be allowed; in the case of a teacher ~~or superintendent~~ who begins work in the  
19 third month of a school year, eight days shall be allowed; in the case of a teacher ~~or~~  
20 ~~superintendent~~ who begins work in the fourth month of a school year, seven days  
21 shall be allowed; in the case of a teacher ~~or superintendent~~ who begins work in the  
22 fifth month of a school year, six days shall be allowed; in the case of a teacher ~~or~~  
23 ~~superintendent~~ who begins work in the sixth month of a school year, five days shall  
24 be allowed; in the case of a teacher ~~or superintendent~~ who begins work in the seventh  
25 month of a school year, four days shall be allowed; and, in the case of a teacher ~~or~~  
26 ~~superintendent~~ who begins work in the eighth month or thereafter of a school year,  
27 three days shall be allowed.

28           B. Upon the retirement of any teacher ~~or superintendent~~ from a special  
29 school or upon his death prior to retirement, the ~~board shall pay to such~~ teacher ~~or~~



1 be paid by the employer. The opinion of the third physician shall be determinative  
2 of the issue.

3 (c) The opinion of all physicians consulted as provided in this Paragraph  
4 shall be submitted to the ~~board~~ superintendent in the form of a sworn statement  
5 which shall be subject to the provisions of R.S. 14:125.

6 (d)(i) In addition to the authority provided in Subsection A of this Section,  
7 special schools ~~the board~~ shall adopt a policy providing for employees suffering from  
8 catastrophic and long-term illness.

9 (ii) The superintendent ~~The board~~ may, as part of a collective bargaining  
10 agreement, or by ~~its own~~ policy provide additional compensation or extended leave  
11 days in excess of what is required in this Section.

12 \* \* \*

13 §48. Maternity leave

14 A. The ~~board~~ superintendent of the Special School District shall grant leaves  
15 of absence to regularly employed women teachers for a reasonable time before and  
16 after childbirth. The granting of such leaves shall not affect any of the tenure rights  
17 which the teacher may have acquired prior thereto under the provisions of Subpart  
18 C of this Part.

19 B. The position vacated by a teacher who has been granted a maternity leave,  
20 or by a teacher transferred to the position vacated by a teacher taking a maternity  
21 leave, in accordance, may be filled by the ~~board by the~~ appointment of substitute  
22 teachers.

23 \* \* \*

24 §49. Military leave

25 A. The ~~board~~ superintendent of the Special School District shall grant leaves  
26 of absence to regularly employed teachers serving in the military service or in the  
27 armed forces of the United States for a period dating from induction, enlistment,  
28 enrollment, or call to service. The granting of such leaves shall not affect any of the

1 tenure rights which the teacher may have acquired prior thereto under the provisions  
2 of Subpart C of this Part.

3 B. The position vacated by a teacher who has been granted a military leave,  
4 or by a teacher transferred to the position vacated by a teacher granted a military  
5 leave, in accordance with Subsection A of this Section may be filled ~~by the board~~ by  
6 the appointment of substitute teachers.

7 \* \* \*

8 §348. Louisiana ~~State School~~ Schools for the Deaf; ~~Louisiana School for the~~ and  
9 Visually Impaired; Louisiana Special Education Center; year-round  
10 operation; continuing service

11 A. The Louisiana Schools ~~State School~~ for the Deaf, the Louisiana School  
12 ~~for the~~ and Visually Impaired, the Louisiana Special Education Center, and ~~the~~  
13 ~~Cerebral Palsy Center at Monroe~~ may convert to year-round operation under the  
14 provisions of this Subpart, subject to the approval of the ~~State Board of Elementary~~  
15 ~~and Secondary Education~~ superintendent of the Special School District and subject  
16 to the availability of funds.

17 B. Special educational services at the Louisiana Special Education Center  
18 ~~and the Cerebral Palsy Center~~ may be continued to be provided until the thirty-  
19 second birthday for individuals with severe physically handicapping conditions who  
20 are receiving work skill training and who have not reached employable proficiency  
21 by their twenty-second birthday, subject to the approval of the superintendent of the  
22 Special School District ~~State Board of Elementary and Secondary Education~~ and  
23 subject to the availability of funds.

24 \* \* \*

25 §1945. Special schools and school districts

26 A. The Special School District shall be considered an educational service  
27 agency administered by the Department of Education, subject to the limitations of  
28 such units which shall include no authority to levy tax. The Special School District

1 shall have the responsibility and authority to create and fill positions to serve the  
2 students in the district subject to the availability of funds.

3 (1) The superintendent of the Special School District shall be the governing  
4 authority for Special School District.

5 (2) The Special School District includes:

6 (a) Louisiana special schools.

7 (b) Special School Programs.

8 (3) The services of the Special School District shall be available to all  
9 eligible students as described in this Section, regardless of their place of residence  
10 within the state.

11 ~~B.(1) The State Board of Elementary and Secondary Education shall have~~  
12 ~~jurisdiction and exercise supervision and control over the state's special schools for~~  
13 ~~the blind, deaf, and orthopedically impaired. The Louisiana School Schools for the~~  
14 ~~Deaf, the Louisiana School for the and Visually Impaired, and the Louisiana Special~~  
15 ~~Education Center, hereinafter in this Section referred to as Board Louisiana Special~~  
16 ~~Schools, are residential schools established to provide such academic, vocational,~~  
17 ~~and other related services as may be required.~~

18 ~~B.(1)~~ (2) The Board Louisiana Special Schools shall establish an annual  
19 enrollment deadline for admission to each of the respective schools. After a school's  
20 deadline, any other children with hearing, visual, or orthopedic impairments may  
21 enroll at the request of their parents, guardians, appointed custodians, or other legal  
22 surrogates if the school, as applicable, determines that there are sufficient resources  
23 to meet the needs of these children as well as the needs of the children enrolled prior  
24 to the enrollment deadline.

25 ~~(2)~~ (3) The Board Louisiana Special Schools may share services and  
26 functions, including but not limited to fiscal, human resources, maintenance,  
27 security, physical plant, food, transportation, admissions, diagnostics, and health  
28 services, to the extent that sharing such services and functions is not in conflict with  
29 federal laws and rules applicable to the education of students with exceptionalities.

1 C.(1) ~~A special school~~ Special School Programs district shall be established  
2 to provide:

3 (a) ~~special~~ Special education and related services to any eligible student with  
4 exceptionalities who is ~~enrolled~~ in any state-operated facility that provides only a  
5 general education program. ~~as a resident of the facility and to provide~~

6 (b) ~~appropriate~~ Appropriate educational services to any eligible student in a  
7 state-operated facility that does not provide an educational program. ~~enrolled in any~~  
8 ~~state-operated health facility.~~

9 (2) Special School Programs may provide appropriate educational services  
10 at facilities where public agencies place students who are in the care or custody of  
11 the public agency and to students whose education is the responsibility of the public  
12 agency.

13 (3) Special School Programs may provide the services authorized in this  
14 Section to students until their twenty-fifth birthday and may provide the services  
15 authorized in this Section to students regardless of age, pursuant to an agreement  
16 between Special School Programs and the facility or the public agency that placed  
17 the student.

18 (2) ~~The special school district shall be considered an education service~~  
19 ~~agency administered by the Department of Education, with the approval of the State~~  
20 ~~Board of Elementary and Secondary Education, subject to the limitations of such~~  
21 ~~units which shall include no authority to levy tax.~~

22 (3) ~~The services of the special school district shall be available to all eligible~~  
23 ~~students herein described, regardless of their place of residence within the state.~~

24 (4) ~~The special school district may enter into interagency agreements with~~  
25 ~~other state agencies to provide appropriate educational services to any eligible~~  
26 ~~student who is not a resident of a state-operated facility but who is in the care or~~  
27 ~~custody of a public or private department, agency, or institution.~~

28 (5) ~~The special school district may enter into interagency agreements with~~

1 ~~other state agencies to provide appropriate educational services to any eligible~~  
2 ~~student regardless of age who is enrolled in any state-operated facility as a resident~~  
3 ~~of the facility.~~

4 Section 2. R.S. 36:642(C)(1) and 648.1 are hereby amended and reenacted to read  
5 as follows:

6 §642. Department of Education; creation; domicile; composition; purposes and  
7 functions

8 \* \* \*

9 C.(1) The Department of Education shall be composed of the executive office  
10 of the superintendent, the office of management and finance, the office of literacy,  
11 the office of science, technology, engineering, and mathematics, the office of college  
12 and career readiness, the office of departmental support, the office of innovation,  
13 ~~special school district number one~~ the Special School District, and such other offices  
14 as shall be created by law.

15 \* \* \*

16 §648.1. Special school district number one; administration

17 A. ~~Special school district number one~~ The Special School District shall be  
18 under the administration and supervision of a ~~state director~~ superintendent of the  
19 Special School District who shall be appointed by the state superintendent of  
20 education, subject to confirmation by the Senate.

21 B. The salary of the ~~state director~~ superintendent of ~~special school district~~  
22 ~~number one~~ the Special School District shall be fixed by the state superintendent and  
23 shall not exceed the amount approved for such position by the legislature while in  
24 session.

25 C. The ~~state director of special school district number one~~ superintendent of  
26 the Special School District shall exercise his duties and functions under the direct  
27 supervision and control of the state superintendent of education.

28 Section 3. R.S. 17:4.1 and 348(D) and (E) and 1945(C)(4) and (5) are hereby  
29 repealed in their entirety.

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 DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Carter

HB No. 1173

**Abstract:** Provides relative to the management and supervision of La. special education schools and programs.

Proposed law amends generally with respect to the management and operation of special education schools and programs as follows:

- (1) Provides for an entity within the Dept. of Education known as the Special School District; removes references to Special School District No. 1.
- (2) Provides that the Special School District includes special schools (the La. Schools for the Deaf and Visually Impaired and the La. Special Education Center) as well as Special School Programs which provide services to students in state-operated facilities.
- (3) Provides for a superintendent of the Special School District who is responsible for administration and management of the district and its schools and programs. Removes provisions regarding the responsibilities of the State Board of Elementary and Secondary Education with respect to such schools and programs.
- (4) Provides that the superintendent of the Special School District, rather than the State Board of Elementary and Secondary Education, is responsible for matters pertaining to sabbatical, sick, personal, maternity, and military leave for teachers in the special schools.

(Amends R.S. 17:43, 46(A)(1)(b), (B), (D), (E)(1), (2)(d), and (4)(b) and (c), (G)(1)(a)(iii), (I), (N)(2), (P), and (Q), 47(A), (B) and (D)(1)(a) and (6)(a), (b), (c), and (d), 48(A) and (B), 49(A) and (B), 348(A) and (B), and 1945 and R.S. 36:642(C)(1) and 648.1; Repeals R.S. 17:4.1 and 348(D) and (E) and 1945(C)(4) and (5))