

Regular Session, 2012

HOUSE BILL NO. 1173

BY REPRESENTATIVE CARTER

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, to enact R.S. 17:46(A)(1)(c), and to repeal R.S. 17:4.1,
6 348(D) and (E), and 1945(C)(4) and (5), provides relative to special education;
7 provides relative to the administration and supervision of Louisiana special schools
8 and programs; and to provide 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 and R.S. 17:46(A)(1)(c) is hereby enacted 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
22 provide all benefits, privileges, rights, and powers as provided for certificated
23 teachers in the public elementary and secondary schools in the interest of statewide
24 uniformity of administration of teacher welfare benefits, including but not limited
25 to the benefits enumerated in this Part.

1 beginning of the semester of the school year for which leave is requested, except
2 that, where a teacher has become sick during a semester and requests medical leave
3 for the purpose of recuperating from such sickness, it shall be sufficient if the
4 application is mailed thirty days before the date upon which the requested leave is
5 to commence.

6 * * *

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

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

17 (2)

18 * * *

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

21 * * *

22 (4)

23 * * *

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

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

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

13 * * *

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

16 * * *

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

19 * * *

20 I. Any person who fails to comply with the provisions of Subsections G and
 21 H of this Section may have his leave terminated by the superintendent of the Special
 22 School District at any time, except where noncompliance is due to conditions which
 23 would have constituted sufficient grounds for failing to perform his duties had he
 24 been in active service.

25 * * *

26 N.

27 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 required to present a certificate from a physician certifying such illness; provided,
 2 further that the ~~board~~ superintendent of the Special School District is authorized to
 3 adopt such rules and regulations as are necessary relative to the use of such sick
 4 leave, either current or accumulated, for emergencies. The ~~board~~ superintendent may
 5 grant additional sick leave, without loss of pay, or with such reduction of pay as ~~it~~
 6 he may establish and fix.

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

22 B. Upon the retirement of any teacher ~~or superintendent~~ from a special
 23 school or upon his death prior to retirement, the ~~board shall pay to such~~ teacher ~~or~~
 24 ~~superintendent~~ or to his heirs or assigns, shall be paid for sick leave which has
 25 accrued to such teacher ~~or superintendent~~ but which remains unused at the time of
 26 ~~his~~ retirement or at the time of ~~his~~ death if prior to retirement, not to exceed twenty-
 27 five days of such unused sick leave. Such pay shall be at the rate of pay received by
 28 the teacher ~~or superintendent~~ at the time of retirement or death prior to retirement;

1 provided that ~~the board may pay such~~ unused sick leave beyond twenty-five days
2 may be paid at its the discretion of the superintendent of the Special School District.

3 * * *

4 D.(1)(a) The superintendent of the Special School District ~~board~~ shall permit
5 each teacher to take up to ninety days of extended sick leave in each six-year period
6 of employment which may be used for personal illness or illness of an immediate
7 family member in the manner provided in this Subsection at any time that the teacher
8 has no remaining regular sick leave balance.

9 * * *

10 (6)(a) If the ~~board~~ superintendent, upon review of the application, questions
11 the validity or accuracy of the certification, the employer may require the teacher or
12 the immediate family member, as a condition for continued extended leave, to be
13 examined by a licensed physician selected by the employer. In such a case, the
14 employer shall pay all costs of the examination and any tests determined to be
15 necessary. If the physician selected by the employer finds medical necessity, the
16 leave shall be granted.

17 (b) If the physician selected by the public school employer disagrees with
18 the certification of the physician selected by the teacher or the immediate family
19 member, then the employer may require the teacher or immediate family member,
20 as a condition for continued extension of sick leave, to be examined by a third
21 licensed appropriate physician whose name appears next in the rotation of physicians
22 on a list established by the local medical society for such purpose ~~and maintained by~~
23 ~~the board~~. All costs of an examination and any required tests by a third doctor shall
24 be paid by the employer. The opinion of the third physician shall be determinative
25 of the issue.

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

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

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

7 * * *

8 §48. Maternity leave

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

14 B. The position vacated by a teacher who has been granted a maternity leave,
15 or by a teacher transferred to the position vacated by a teacher taking a maternity
16 leave, in accordance, may be filled by the ~~board~~ by the appointment of substitute
17 teachers.

18 * * *

19 §49. Military leave

20 A. ~~The board~~ superintendent of the Special School District shall grant leaves
21 of absence to regularly employed teachers serving in the military service or in the
22 armed forces of the United States for a period dating from induction, enlistment,
23 enrollment, or call to service. The granting of such leaves shall not affect any of the
24 tenure rights which the teacher may have acquired prior thereto under the provisions
25 of Subpart C of this Part.

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

30 * * *

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

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

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

18 ~~(2)~~ (3) The ~~Board~~ Louisiana Special Schools may share services and
 19 functions, including but not limited to fiscal, human resources, maintenance,
 20 security, physical plant, food, transportation, admissions, diagnostics, and health
 21 services, to the extent that sharing such services and functions is not in conflict with
 22 federal laws and rules applicable to the education of students with exceptionalities.

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

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

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

1 literacy, the office of science, technology, engineering, and mathematics, the office
2 of college and career readiness, the office of departmental support, the office of
3 innovation, ~~special school district number one~~ the Special School District, and such
4 other offices as shall be created by law.

5 * * *

6 §648.1. Special school district; ~~number one~~; administration

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

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

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

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

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____