

Regular Session, 2012

ACT No. 441

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.

B.(1) As used in this Part "special schools" includes all special schools under the State Board of Elementary and Secondary Education, and Special School District Number One and all the special schools comprising said district Louisiana special schools and all schools or educational programs in Special School Programs operated by the Louisiana Department of Education through the Special School District.

(2) Teachers at the Louisiana Schools for the Deaf and Visually Impaired may attain tenure in the educational program, either the educational program for the hearing impaired or the educational program for the visually impaired, for which they are certified. Teachers at the Louisiana Special Education Center may attain tenure at the Louisiana Special Education Center. Teachers in Special School Programs may attain tenure in Special School Programs.

* * *

§46. Sabbatical leave program

A.(1)

* * *

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

(c) For purposes of this Subpart, Louisiana Schools for the Deaf and Visually Impaired, Louisiana Special Education Center, and Special School Programs are considered separate schools.

B. Applications for sabbatical leave shall be made on a form to be provided by the superintendent of the ~~special school where the teacher is employed~~ Special School District. Applications shall be sent to the superintendent of the Special School District by registered or certified mail at least sixty days preceding the

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

* * *

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

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

(2)

* * *

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

* * *

(4)

* * *

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

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

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

* * *

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

* * *

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

* * *

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

* * *

N.

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

4 * * *

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

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

24 §47. Sick and personal leave

25 A.(1) All teachers ~~and superintendents~~ employed by the special schools of
26 this state shall be entitled to and shall be allowed a minimum of ten days absence per
27 school year because of personal illness or because of other emergencies, without loss
28 of pay. Such sick leave when not used in any year shall be accumulated to the credit
29 of the teacher ~~or superintendent~~ without limitation. Provided that when a teacher is
30 absent for six or more consecutive days because of personal illness, he shall be

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 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.

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

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

* * *

§48. Maternity leave

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

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

* * *

§49. Military leave

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

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

* * *

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

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

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

* * *

§1945. Special schools and school districts

A. The Special School District shall be considered an educational service
agency administered by the Department of Education, subject to the limitations of
such units which shall include no authority to levy tax. The Special School District
shall have the responsibility and authority to create and fill positions to serve the
students in the district subject to the availability of funds.

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

(2) The Special School District includes:

(a) Louisiana special schools.

(b) Special School Programs.

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.~~

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

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

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

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

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

~~(5) The special school district may enter into interagency agreements with other state agencies to provide appropriate educational services to any eligible student regardless of age who is enrolled in any state-operated facility as a resident of the facility.~~

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

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

* * *

C.(1) The Department of Education shall be composed of the executive office of the superintendent, the office of management and finance, the office of

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: _____