

COMPARISON DOCUMENT

Title 28

EDUCATION

Part XLIII. *Bulletin 1706—Regulations for Implementation of the Children with Exceptionalities Act*

Subpart 1. Students with Disabilities

Chapter 5. Procedural Safeguards

Subchapter A. Due Process Procedures for Parents and Students

§511. Impartial Due Process Hearing and Hearing Officer Appointments

A. – I.5. ...

J. Burden of Proof. ~~The burden of proof at a due process hearing is on the party seeking relief. In any special education due process hearing, the local education agency shall have the burden of proof, including the burden of persuasion and production, relative to the appropriateness of a student's program or placement or the appropriateness of the program or placement proposed by the agency. This burden shall be met by a preponderance of the evidence.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1941 et seq.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 34:2072 (October 2008), amended LR 38:2367 (September 2012), LR 51:60 (January 2025), LR 52:

Part CLVII. *Bulletin 135—Health and Safety*

Chapter 7. Behavioral Health Services

§701. Definitions

Medically Necessary Services—any services provided for diagnosis, treatment, cure, or relief of a health condition, illness, injury, or disease except for clinical trials that are described within the policy, not for experimental, investigational, or cosmetic purposes, and are within the generally accepted standards of medical care in the community, not solely for the convenience of the insured, the insured’s family, or the provider.

School-Based Service Delivery Review Meeting—a meeting held, either in person or virtually, for the purpose of reviewing the delivery of behavioral health services in the school setting, including the behavioral health provider’s role, applicable student plans, classroom expectations, communication, scheduling, and other procedures necessary to support uninterrupted instruction and appropriate coordination between school personnel and the behavioral health provider.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944 and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:46 (January 2025), LR 52:

§703. Behavioral Health Services for Students

A. ...

B. Each public school governing authority shall adopt ~~and make available to the public~~ a policy to implement the provisions of this Section. The policy shall not create onerous requirements for behavioral health providers resulting in a delay or barrier to the provision of medically necessary services. The policy shall be made available to the public by, at a minimum, posting it on the public school governing authority’s website, and shall be included in the student handbook. The policy, at a minimum, shall include:

1. – 4. ...

5. A public school governing authority shall not prohibit a behavioral health evaluation, assessment, or authorized treatment plan from being performed on school property in order to establish medical necessity or deliver medically necessary services. Behavioral health services ~~shall~~ may be provided in or outside of a physical classroom, to the extent that it is medically necessary, during any part of the school day, including any and all instructional time in courses including but not limited to English, reading, mathematics, and science. The school administrator and service provider shall work collaboratively to create a consistent schedule that meets the medical needs of the student and complies with the provider’s ethical code of conduct. In developing the student’s plan, consideration shall include impacts on the school’s operations and a student’s testing schedule. If the parties cannot agree, then the parties shall engage in a dispute resolution process set forth by LDOE in accordance with §705 of this Chapter.

6. – 7. ...

8. While on a school campus, a behavioral ~~health service~~ provider shall comply with, and abide by, the terms of any Individualized Education Program (IEP), Individualized Accommodation Plan (IAP), Section 504 Plan, Behavior Management Plan, or Individual Health Plan Individualized Healthcare Plan (IHP) applicable to a student who is a patient of the provider. The services furnished by a provider shall be incorporated into a written treatment plan applicable to the student.

9 – 11. ...

12. If supervision of the behavioral health provider is conducted virtually, no student other than the student receiving behavioral health services shall be recorded.

13. The contract or agreement between a public school governing authority and a behavioral health provider may specify whether a school principal may dismiss a behavioral health provider staff member from the campus and the terms under which such a dismissal is permissible.

14. In the event of a conflict between a student’s IEP, IAP, Section 504 Plan, Behavior Intervention Plan (BIP), or IHP and a behavioral health provider’s written treatment plan, the applicable student plan shall control with respect to the educational services and supports addressed by that plan.

15. Medically necessary behavioral health services authorized under this Chapter are not required to be included in any student plan identified in this Subsection as a condition of being delivered on school property, and the absence of such services from any such student plan shall not constitute a basis to deny such services.

C. – F.3. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944, 34 CFR 300.320, and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:46 (January 2025), LR 52:

§705. Behavioral Health Service Complaint Procedures

A. Complaint Procedures. The LDOE shall establish written procedures for the purpose of resolving any complaint ~~which is filed by an affected individual~~ alleging that a public school governing authority has violated a requirement of R.S. 17:173 or this Chapter and that meets the requirements herein by providing for the filing of a formal written complaint with the LDOE and provide for a dispute resolution process relative to behavioral health services provided in accordance with this Chapter.

1. A parent or legal guardian shall be the sole person permitted to file a dispute resolution claim in relation to a student.

2. A claim shall be filed only after an alleged incident has occurred.

3. In the event of a conflict between a student's IEP, IAP, Section 504 Plan, Behavior Intervention Plan (BIP), or IHP and a behavioral health provider's written treatment plan, the applicable student plan shall control with respect to the educational services and supports addressed by that plan.

B. – I.

...

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944, 34 CFR 300.320, and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 51:48 (January 2025), LR 52:

§707. School-Based Service Delivery Review Meeting

A. Within twenty-one days after a parent or legal guardian submits a behavioral health treatment plan to a school administrator, and no later than fourteen school days after behavioral health services begin, the school administrator or designee shall ensure that a school-based service delivery review meeting is held in person or virtually.

B. At a minimum, the meeting shall include the school administrator or designee, the student's classroom teacher or teachers, and the behavioral health provider. The meeting may also include the student's special education teacher, case manager, or other school employee responsible for implementation of the student's IEP, IAP, Section 504 Plan, BIP, or IHP.

C. Behavioral health services may begin prior to the meeting if reasonable efforts are made to coordinate with school personnel. A behavioral health provider may initiate and continue medically necessary services, and the school shall provide reasonable access to the student, pending completion of the review meeting. Reasonable access includes the ability to enter the school, observe the student, and deliver authorized services during the school day in coordination with instructional activities.

D. The review meeting shall address, at a minimum, the following:

1. review of the provider's written treatment plan and any applicable student plan identified in this Section;

2. the role and responsibilities of the behavioral health provider while on campus, including activities to be conducted in the classroom during instructional time;

3. the classroom routines, school policies, and behavioral expectations applicable to the student;

4. the method and frequency of ongoing communication between the provider and school personnel and the chain of communication for questions or concerns;

5. the schedule for services during the school day, including coordination with instructional activities, assessments, and schoolwide events; and

6. procedures for requesting a follow-up meeting when the provider changes or there is a material change in the student's classroom or educational placement or in the provider's treatment plan.

E. The school-based service delivery review meeting shall not take the place of any meeting required by a student's IEP.

F. A behavioral health provider delivering services in accordance with this Chapter shall use reasonable efforts to minimize disruption to instruction and classroom management. Recommendations, concerns, or requested changes regarding classroom strategies, interventions, accommodations, modifications, supports, or safety procedures shall be communicated to the teacher and the school administrator or designee outside the presence of other students, except when immediate action is necessary to prevent imminent risk of harm to the student or another person.

G. A behavioral health provider shall not direct, supervise, or evaluate the job performance of a teacher or other school employee. A provider's role in the classroom is limited to delivery of services to the designated student, which may include collaboration with school personnel to support implementation of the student's treatment plan. A provider shall not implement or direct the implementation of medically necessary services that knowingly interfere, impede, or conflict with services the school is legally required to provide under a student plan identified in this Section without collaboration and agreement between service providers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 17:1944, 34 CFR 300.320, and R.S. 17:173.

HISTORICAL NOTE: Promulgated by the Board of Elementary and Secondary Education, LR 52: