

1 **SENATE FLOOR VERSION**

2 April 12, 2022

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL NO. 4106

By: Vancuren and Lawson of the
House

6 and

7 Pemberton of the Senate

8
9 [schools - protocol for responding to students in
10 mental health crisis - requirements for protocol -
11 Oklahoma Prevention Needs Assessment Survey - written
notification - effective date -
emergency]

12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 24-159 of Title 70, unless there
16 is created a duplication in numbering, reads as follows:

17 A. Each public school district shall maintain a protocol for
18 responding to students in mental health crisis with the goal of
19 preventing student suicide, self-harm, and harm to others.

20 1. The protocol shall be developed, maintained, and implemented
21 in partnership with one or more local mental health treatment
22 providers certified by the Department of Mental Health and Substance
23 Abuse Services. At least one provider partner shall have:

- a. the ability to serve all school-aged children regardless of insurance status, and
- b. the ability and certification to provide mental health crisis services in the region where students attend school.

2. Any organization certified by the state as a community mental health center as defined in Section 3-302 of Title 43A of the Oklahoma Statutes or a Certified Community Behavioral Health Clinic shall serve as a school partner if requested by a school district located in its state-designated service area.

B. The protocol for responding to mental health crises shall, at a minimum:

1. Provide a definition of mental health crisis involving potential for harm to self or others;
2. Document how mental health crises may be identified by school administrators, teachers, support employees, and school-based mental health professionals;
3. Outline nonpunitive steps to safeguard student health and safety in response to an immediate or potential mental health crisis;
4. Identify local treatment providers and resources available to support students and families in mental health crisis and ensure appropriate referrals to treatment;

1 5. Outline a process for ensuring parent and caregiver
2 notification and involvement during an actual or potential mental
3 health crisis; and

4 6. Document how student privacy will be protected in compliance
5 with applicable state and federal laws.

6 C. If a student who is under eighteen (18) years of age is
7 identified as being in or at risk of a mental health crisis, the
8 school shall inform the parent or legal guardian of the student and
9 offer the treatment referral information contained in the protocol.
10 Parent or legal guardian consent shall be required for any
11 subsequent action taken by the school as part of the protocol except
12 in cases of immediate and life-threatening danger to self or others.

13 D. All protocols developed by school districts and partner
14 organizations shall comply with the Health Insurance Portability and
15 Accountability Act (HIPAA) of 1996 and Family Educational Rights and
16 Privacy Act (FERPA) privacy requirements.

17 E. School administrators, teachers, support employees, and
18 school-based mental health providers shall be provided ready access
19 to and regular training on the protocol.

20 F. A working agreement shall be signed by the school district
21 board of education and each identified mental health provider
22 partner outlining all obligations of the parties under the
23 established protocol and a strategy for regularly reviewing its
24 effectiveness using anonymous, nonidentifiable data.

1 G. Not less than every two (2) years, the school district and
2 its mental health provider partners shall jointly review the
3 protocol and working agreements and consider any updates necessary
4 to better meet the needs of students. School districts and mental
5 health provider partners shall include in their review process
6 information gathered from the Oklahoma Prevention Needs Assessment
7 Survey or an alternative survey, as provided for in Section 24-158
8 of Title 70 of the Oklahoma Statutes.

9 H. Each school district shall submit the latest protocol and
10 working agreements to the State Department of Education, which shall
11 share the protocols and agreements with the Department of Mental
12 Health and Substance Abuse Services. These agencies may require
13 revisions to ensure compliance with applicable laws, regulations,
14 and established evidence-based practices.

15 I. The Department of Mental Health and Substance Abuse Services
16 and the State Department of Education shall provide technical
17 assistance to school districts and their provider partners by:

18 1. Making available an optional template protocol which
19 satisfies the provisions of this section;

20 2. Making available an optional template working agreement
21 which can be adopted by schools and provider partners;

22 3. Providing school districts with lists of local public and
23 private treatment providers eligible to serve as partners in the
24 development and maintenance of a protocol;

1 4. Providing information on any available mental health crisis
2 phone line;

3 5. Making available information on evidence-based practices for
4 meeting the mental health needs of students; and

5 6. Providing ongoing assistance and consultation as requested
6 by a school district.

7 J. The Board of Mental Health and Substance Abuse Services and
8 the State Board of Education may promulgate rules as necessary to
9 ensure compliance with this section.

10 K. Nothing in this section shall be construed to create,
11 establish, expand, reduce, contract, or eliminate any civil
12 liability on the part of any school or school employee.

13 SECTION 2. AMENDATORY 70 O.S. 2021, Section 24-158, is
14 amended to read as follows:

15 Section 24-158. A. The "Oklahoma Prevention Needs Assessment
16 Survey" means the biennial mental health prevention survey of public
17 school students in grades six, eight, ten, and twelve managed by the
18 Department of Mental Health and Substance Abuse Services.

19 B. Beginning in the 2022-2023 school year, and biennially
20 thereafter, public schools shall administer the Oklahoma Prevention
21 Needs Assessment Survey, or an alternative survey as provided in
22 subsection D of this section, for the purpose of providing direction
23 to schools, school districts, and communities to effectively improve
24 the lives of students regarding a variety of issues with a focus on

1 alcohol, tobacco, other drug use, mental health, academic failure,
2 and violence.

3 C. The Department of Mental Health and Substance Abuse Services
4 shall maintain the Oklahoma Prevention Needs Assessment Survey and
5 shall provide technical assistance for schools in survey
6 administration, reporting, planning, and development of school
7 mental health prevention and intervention strategies informed by the
8 survey results.

9 D. If a school or school district chooses to administer an
10 alternative survey or assessment tool to fulfill the purpose
11 described in subsection B of this section, it may apply for a waiver
12 through the Department of Mental Health and Substance Abuse
13 Services.

14 E. The school district superintendent or his or her designee
15 shall provide prior written notification to the parents or legal
16 guardians of students to be administered the Oklahoma Prevention
17 Needs Assessment Survey or an alternative survey or assessment tool
18 adopted pursuant to subsection D of this section. The notification
19 shall include information to parents and legal guardians that they
20 may opt their student out of the survey or assessment tool by
21 providing written notice to the school district.

22 F. Prior to the biennial administration of the Oklahoma
23 Prevention Needs Assessment Survey, the Department of Mental Health
24 and Substance Abuse Services shall submit the survey to the

1 President Pro Tempore of the Senate, the Speaker of the House of
2 Representatives, the chairs of the committees with responsibility
3 over common education in both houses of the Legislature, and the
4 chairs of the committees with responsibility over public health in
5 both houses of the Legislature.

6 G. The provisions of this section shall be subject to the
7 availability of federal funding. If federal funding is insufficient
8 to provide the Oklahoma Prevention Needs Assessment Survey to public
9 schools on a biennial basis, administration of the survey shall not
10 be required.

11 ~~F.~~ H. The Board of Mental Health and Substance Abuse Services
12 and the State Board of Education may promulgate rules as necessary
13 to carry out the provisions of this section.

14 SECTION 3. This act shall become effective July 1, 2022.

15 SECTION 4. It being immediately necessary for the preservation
16 of the public peace, health or safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

19 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION
20 April 12, 2022 - DO PASS AS AMENDED

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