

Representative Steve Eliason proposes the following substitute bill:

STUDENT MENTAL HEALTH AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Steve Eliason

Senate Sponsor: Ann Millner

LONG TITLE

General Description:

This bill amends provisions related to the student mental health screening program.

Highlighted Provisions:

This bill:

- amends the student mental health screening program to extend the deadline to allow a local education agency (LEA) to determine whether to be a participating or non-participating LEA;

- requires reporting from the State Board of Education regarding the mental health screening program;

- provides instructions to the State Board of Education on how to distribute funds to participating LEAs; and

- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 **53F-2-415**, as last amended by Laws of Utah 2023, Chapters 98, 328 and 342

27 **53F-2-522**, as last amended by Laws of Utah 2023, Chapters 193, 328

28

Be it enacted by the Legislature of the state of Utah:

29 Section 1. Section **53F-2-415** is amended to read:

30 **53F-2-415. Student health and counseling support -- Qualifying personnel --**
31 **Distribution formula -- Rulemaking.**

32 (1) As used in this section:

33 (a) "Behavioral health support personnel" means an individual who:

34 (i) works under the direct supervision of qualifying personnel to:

35 (A) support and track a student's progress and access to and completion of school
36 curriculum; and

37 (B) support students by prompting, redirecting, encouraging, and reinforcing positive
38 behaviors;

39 (ii) is not certified or licensed in mental health; and

40 (iii) meets the professional qualifications as defined by state board rule;

41 (b) "Qualifying personnel" means a school counselor or other counselor, a school
42 psychologist or other psychologist, a school social worker or other social worker, or a school
43 nurse who:

44 (i) is licensed; and

45 (ii) collaborates with educators and a student's parent on:

46 (A) early identification and intervention of the student's academic and mental health
47 needs; and

48 (B) removing barriers to learning and developing skills and behaviors critical for the
49 student's academic achievement.

50 (c) "Telehealth services" means the same as that term is defined in Section **26B-4-704**.

51 (2) (a) Subject to legislative appropriations, and in accordance with Subsection (2)(b),
52 the state board shall distribute money appropriated under this section to LEAs to provide
53 targeted school-based mental health support, including clinical services and trauma-informed
54 care, through:

55 (i) employing qualifying personnel;

(ii) employing behavioral health support personnel; or
(iii) entering into contracts for services provided by qualifying personnel, including telehealth services.

(b) (i) The state board shall, after consulting with LEA governing boards, develop a formula to distribute money appropriated under this section to LEAs.

(ii) The state board shall ensure that the formula described in Subsection (2)(b)(i) incentivizes an LEA to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(iii) The state board shall provide guidance for LEAs regarding the training, qualifications, roles, and scopes of practice for qualifying personnel and behavioral health support personnel that incorporates parent consent and partnership as key components in addressing the mental health and behavioral health needs of students.

(3) To qualify for money under this section, an LEA shall submit to the state board a plan that includes:

(a) measurable goals approved by the LEA governing board on improving student safety, student engagement, school climate, or academic achievement;

(b) how the LEA intends to meet the goals described in Subsection (3)(a) through the use of the money;

(c) how the LEA is meeting the requirements related to parent education described in Section 53G-9-703; and

(d) whether the LEA intends to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(4) The state board shall distribute money appropriated under this section to an LEA that qualifies under Subsection (3), based on the formula described in Subsection (2)(b).

(5) An LEA may not use money distributed by the state board under this section to supplant federal, state, or local money previously allocated to:

(a) employ qualifying personnel;

(b) employ behavioral health support personnel; or

(c) enter into contracts for services provided by qualified personnel, including telehealth services.

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

state board shall make rules that establish:

(a) procedures for submitting a plan for and distributing money under this section;

(b) the formula the state board will use to distribute money to LEAs described in Subsection (2)(b); and

(c) in accordance with Subsection (7), annual reporting requirements for an LEA that receives money under this section.

(7) An LEA that receives money under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (3)(a);

(b) if the LEA discontinues a qualifying personnel position or a behavioral health support personnel position, the LEA's reason for discontinuing the positions; and

(c) how the LEA, in providing school-based mental health support, complies with the provisions of Section 53E-9-203.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

(9) The state board may use up to:

(a) 2% of an appropriation under this section for costs related to the administration of the provisions of this section; and

(b) \$1,500,000 in nonlapsing balances from fiscal year 2022 for the purposes described in this section to provide scholarships for up to four years to certain LEA employees, as defined by the state board, for education and training to become a school social worker, a school psychologist, or other school-based mental health worker.

(10) Notwithstanding the provisions of this section, money appropriated under this section may be used, as determined by the state board, for:

(a) the SafeUT Crisis Line described in Section 53B-17-1202; ~~or~~

(b) (i) youth suicide prevention programs described in Section 53G-9-702; or

(ii) a comprehensive prevention plan, as that term is defined in Section 53F-2-525[-];

or

(c) providing grants to LEAs as provided in Subsection 53F-2-522(5).

Section 2. Section **53F-2-522** is amended to read:

53F-2-522. Public education mental health screening.

(1) As used in this section:

(a) "Division" means the Division of Integrated Healthcare within the Department of Health and Human Services.

(b) "Non-participating LEA" means an LEA that does not administer an approved mental health screening program described in this section.

(c) "Participating LEA" means an LEA that has an approved screening program described in this section.

(d) "Participating student" means a student in a participating LEA who participates in a mental health screening program.

(e) "Qualifying parent" means a parent:

(i) of a participating student who, based on the results of a screening program, would benefit from resources that cannot be provided to the participating student in the school setting; and

(ii) who qualifies for financial assistance to pay for the resources under rules made by the state board.

(f) "Screening program" means a student mental health screening program selected by a participating LEA and approved by the state board in consultation with the division.

(2) (a) On or before July 1, 2023, an LEA governing board shall determine whether the LEA will be a participating LEA or a non-participating LEA for the 2023-24 school year.

(b) (i) During the 2023-24 school year, and each year after, a participating LEA may change the LEA's participation status and become a non-participating LEA for the next school year by reporting the status change to the state board [~~by the end of the current school year~~] on or before August 1, 2024.

(ii) An LEA that changed the LEA's status from participating to non-participating in Subsection (2)(b)(i) is subject to the requirements of a non-participating LEA described in Subsection (2)(c).

(c) (i) During the 2023-24 school year, and each year after, a non-participating LEA's governing board shall submit a record of determination to the state board [~~by the end of the school year~~] on or before August 1 of each year, which record shall state whether the

non-participating LEA will:

(A) maintain the LEA's non-participating status; or

(B) change the LEA's status to be a participating LEA.

(ii) If the non-participating LEA determines the LEA will change participation status and become a participating LEA, the LEA's status of participation will change at the end of the current school year.

(d) If an LEA governing board failed to make the determination required in Subsection (2)(a) on or before July 1, 2023, the LEA governing board shall determine whether the LEA will be a participating LEA for the 2024-25 school year and notify the state board of the determination on or before August 1, 2024.

(3) The state board shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(i) establish a process for a participating LEA to submit a selected screening program to the state board for approval;

(ii) in accordance with Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, establish who may access and use a participating student's screening data;

(iii) establish a requirement and a process for appropriate LEA or school personnel to attend annual training related to administering the screening program;

(iv) determine whether a parent is eligible to receive the financial support described in Subsection (5)(a) as a qualifying parent; and

(v) apply for and distribute the financial support described in Subsection (5)(a);

(b) in consultation with the division, approve an evidence-based student mental health screening program selected by a participating LEA that:

(i) is age appropriate for each grade in which the screening program is administered;

(ii) screens for the mental health conditions determined by the state board and division;

and

(iii) is an effective tool for identifying whether a student has a mental health condition that requires intervention; and

(c) on or before ~~November 30~~ August 30 of each year, submit a report on the

181 screening programs to

182 the State Suicide Prevention Coalition created under Subsection 26B-5-611(2) and

183 the Education Interim Committee in accordance with Section 53E-1-201 that contains
184 the following:

185 (i) the approximate number of participating students that were screened in each
186 participating LEA the previous school year;

187 (ii) the approximate number of participating students referred to additional services or
188 for whom intervention was required;

189 ~~[(ii)]~~ (iii) the names and number of:

190 (A) participating LEAs; ~~and~~

191 (B) non-participating LEAs; and

192 (C) LEAs that failed to make and report to the state board the determination to be
193 participating or non-participating LEAs;

194 (iv) information regarding:

195 (A) reasons why an LEA failed to make a determination to be a participating or
196 non-participating LEA; and

197 (B) any LEA that determined to be a participating LEA but failed to implement a
198 mental health screening program;

199 ~~[(iii)]~~ (v) an overview of how participating LEAs utilized distributed funds; and

200 ~~[(iv)]~~ (vi) whether the amount of distributed funds to each participating LEA was
201 sufficient for the participating LEA's needs.

202 (4) A participating LEA shall:

203 (a) in accordance with rules made by the state board under Subsection (3)(a), submit a
204 selected evidence-based screening program to the state board for approval;

205 (b) implement and administer a state board-approved mental health screening program
206 to participating students in the participating LEA by:

207 (i) annually notifying each parent with a student in the participating LEA that the
208 parent may have the student screened for mental health conditions;

209 (ii) obtaining prior written consent from a student's parent, that complies with Section
210 53E-9-203, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, before
211 the participating LEA screens a participating student;

(iii) screening the student for mental health conditions; and
(iv) if results of a participating student's screening indicate a potential mental health condition, notifying the parent of the participating student of:

(A) the participating student's results; and

(B) resources available to the participating student, including any services that can be provided by the school mental health provider or by a partnering entity;

(c) use state board-distributed funds for the purposes described in Subsection (5)(a);
and

(d) provide the state board with necessary information and data for the state board to complete the report described in Subsection (3)(c).

(5) (a) Within appropriations made by the Legislature for this purpose, the state board may distribute funds to a participating LEA to use to:

(i) implement and administer a mental health screening for participating students as described in Subsection (4)(b); and

(ii) assist a qualifying parent to pay for resources described in Subsection (4)(b)(iv)(B) that cannot be provided by a school mental health professional in the school setting.

(b) To distribute funds as described in Subsection (5)(a), the state board shall:

(i) distribute 90% of the available funds to participating LEAs based on the previous year's average daily membership count; and

(ii) distribute the remaining 10% of the available funds on an as-needed basis to participating LEAs if the LEA has exhausted the funds distributed under Subsection (5)(b)(i) and has additional need.

~~[(b)]~~ (c) The state board may not distribute funds described in Subsection (5)(a) to a non-participating LEA.

(6) A school employee trained in accordance with rules made by the state board under Subsection (3)(a)(iii), who administers an approved mental health screening in accordance with this section in good faith, is not liable in a civil action for an act taken or not taken under this section.

Section 3. **Effective date.**

This bill takes effect on May 1, 2024.