



ROSENSTEIN, FIST & RINGOLD

RED BANNER UPDATE

Date: May 26, 2022

Re: HB 4106

Signed: May 18, 2022

Effective: July 1, 2022

Topic: **Protocols for Responding to Student Mental Health Crises**

Summary: House Bill 4106 (the “Bill”) creates a new section of law at OKLA. STAT. tit. 70, § 24-159 and amends existing law located at OKLA. STAT. tit. 70, § 24-158. The Bill requires schools to have a protocol for responding to students in mental health crisis with the goal of preventing student suicide, self-harm, and harm to others.

Protocol Requirements

The protocol must be developed, maintained, and implemented in partnership with at least one local mental health treatment provider certified by the Department of Mental Health and Substance Abuse Services (“ODMHSAS”). At least one provider partner must be (1) able to serve all school-aged children regardless of insurance status, and (2) able and certified to provide mental health crisis services in the region where students attend school. Any organization certified as a mental health center or a Certified Community Behavioral Health Clinic must serve as a school partner if requested by a school located within its designated service area. At a minimum, the Bill requires a school’s protocol to:

- (1) provide a definition of mental health crisis involving harm to self or other;
- (2) document how mental health crises can be identified by administrators, teachers, support employees, and school mental health professionals;
- (3) outline non-punitive methods of safeguarding student health and safety when responding to an immediate or potential health crisis;
- (4) identify local treatment providers and resources available to support students and families in mental health crisis and ensure appropriate referrals for treatment;
- (5) outline a process for ensuring parent/caregiver notification and involvement in the event of an actual or potential crisis; and
- (6) document how student privacy will be protected under state and federal law.



The Bill also requires the district’s board of education and its provider partners to enter into a “working agreement” outlining the parties’ obligations under the protocol and a strategy for regularly reviewing the protocol’s effectiveness using anonymous data. A school’s administrators, teachers, support employees, and school-based mental health providers must be provided ready access to and regular training on the protocol. Lastly, all protocols developed by school districts and their partners must comply with HIPAA and FERPA privacy requirements.

Identification of Mental Health Crises and Notifying Parents

If a school identifies a student under the age of eighteen (18) years old as being in or at risk of a mental health crisis, the school will be required to inform their parent/legal guardian and offer treatment referral information contained in the protocol. Except in cases of immediate and life-threatening danger to self or others, the parent or legal guardian must consent before a school may take subsequent action under its protocol.

Reviewing the Protocol and Agency Guidance

At least every two (2) years, a school and its partner(s) must jointly review the protocol and working agreements to determine whether updates are required to better meet the needs of students. The review process must include information gathered from the Oklahoma Prevention Needs Assessment Survey (“OPNAS”) or an alternative survey. The latest protocol and working agreements must be submitted to the State Department of Education (“OSDE”) for its and the ODMHSAS’ review. These agencies may require revisions to ensure compliance with laws, regulations, and established evidence-based practices. The Bill further requires the ODMHSAS and OSDE to provide technical assistance to schools and their partners by providing, among other things, a template protocol that satisfies the aforementioned provisions, a template working agreement, and lists of local public and private treatment providers eligible to serve as partners.

Amendments to the Oklahoma Prevention Needs Assessment Survey Statute

The Bill also makes changes to the statute that requires school districts to administer the OPNAS or an alternative survey. A school’s superintendent or designee must now provide prior written notice to the parents/legal guardians of students to be administered the OPNAS or alternative assessment tool. The notification must include a parent/legal guardian’s option to opt out of the survey or assessment tool by notifying the school in writing.

For More Information

Please visit the firm’s website to view the signed Bill. RFR attorneys are reviewing this legislation and will be advising clients as to any recommended changes to existing district policies.