

Applied Behavior Analysis in Schools

INTRODUCTION

This document outlines the requirements and implications of Louisiana Revised Statute 17:173 as amended by Act 745 of the 2024 Regular Legislative Session and *Bulletin 135 - School Health and Safety*. This legislation mandates that school governing authorities ensure students' access to medically necessary behavioral health services authorized and paid for by the parent or legal guardian or an independent third-party payor. The legislation also requires public local authorities to establish clear policies regarding the provision of these services.

What is ABA?

ABA is the process of systematically applying interventions based upon the principles of learning theory to improve socially significant behaviors to a meaningful degree, and to demonstrate that the interventions employed are responsible for the improvement in behavior.

What types of services are covered under R.S. 17:173?

As defined by R.S. 17:173, "Applied behavior analysis services" shall include the design, implementation, and evaluation of systematic instructional and environmental modifications by an applied behavior analysis provider to produce socially significant improvements in behavior as described in the Behavior Analyst Practice Act. "Behavioral health services" shall include but not be limited to individual psychotherapy, family psychotherapy, psychotropic medication management, community psychiatric support and treatment, crisis intervention, and medically necessary applied behavior analysis services. This includes behavioral health evaluations, assessments, and the development/execution of treatment plans as deemed medically necessary.

Who can provide these services according to R.S. 17:173?

According to R.S. 17:173, "Applied behavior analysis provider" shall mean a provider who is licensed, certified, or registered by the Louisiana Behavior Analyst Board and is in good standing to provide applied behavior analysis services. "Behavioral health provider" shall mean a provider who is licensed by the Louisiana Department of Health or a health profession licensing board and

is in good standing to provide behavioral health services in Louisiana, including but not limited to a psychiatrist, psychologist, medical psychologist, licensed specialist in school psychology, marriage and family therapist, professional counselor, clinical social worker, applied behavior analysis provider, or a behavioral health provider organization licensed to provide behavioral health services in Louisiana.

PURPOSE

The purpose of this initiative is to ensure that all students have timely access to medically essential behavioral health services during school hours, fostering a supportive environment that promotes their academic achievement and well-being. It aims to establish clear guidelines for the integration and involvement of qualified behavioral health service providers within schools, ensuring effective collaboration and delivery of services that address students' behavioral health needs.

GOALS

The fundamental goal of the legislation is to ensure that students have access to medically necessary behavioral health services during school hours. It aims to:

1. **Facilitate Access:** Remove barriers that prevent students from receiving behavioral health support by prohibiting public school governing authorities from generally denying access to service providers.
2. **Establish Clear Policies:** Require school systems to adopt and publicly share policies regarding the qualifications and accountability of behavioral health providers, including background checks and liability insurance.
3. **Ensure Medical Necessity:** Mandate that services provided must be medically necessary and authorized by independent payors, ensuring that students receive appropriate care.
4. **Streamline Collaboration:** Promote collaboration between school administrators and service providers for scheduling while providing a mechanism for dispute resolution if necessary.
5. **Enhance Student Support:** Improve the overall support system for students' mental and behavioral health needs within the educational environment.

KEY PROVISIONS

- **Access to Services:**
 - Public school governing authorities cannot deny access to medically necessary behavioral health service providers during school hours if requested by a student's parent or legal guardian.
 - Public school governing authorities shall not enter into a contract or an exclusive agreement with a behavioral health provider that prohibits the parent or legal

guardian from choosing the behavioral health provider for the student. However, the provisions of the law do not prevent school governing authorities from having additional ABA contracts or services for students.

- The provider must present a behavioral health evaluation performed by an evaluator as well as an assessment and authorized treatment plan performed by a behavioral health provider chosen by the parent or legal guardian. The evaluation must indicate that the services are necessary during school hours to assist the student with behavioral health impairments associated with a medical diagnosis that the evaluator determines is interfering with the student's ability to thrive in the educational setting.

- **Policy Requirements:**

- Governing authorities must adopt and publicly share policies in alignment with [*Bulletin 135 - School Health and Safety*](#), Chapter 7, that include:
 - Liability insurance coverage for providers.
 - Criminal background checks for providers.
 - Compliance with students' specific education, behavior, or health plans.
 - Reporting on students' progress to parents/guardians.
 - Complaint procedures.

- **Parental Consent:**

- The parent or legal guardian of a student receiving services from a behavioral service provider shall be required to execute a "consent to release information form" between the provider and the public school governing authority.

- **Service Authorization:**

- Services must be deemed medically necessary and authorized by independent third-party payors, such as Medicaid or commercial insurance.

- **Service Scheduling:**

- Collaboration between school administrators and service providers is required.
- Services may occur during any part of the school day, including instructional time.

IMPLEMENTATION GUIDELINES

- **Provider Background Checks:**

- All providers must complete a criminal background check. However, licensed, certified, or registered providers in good standing with the Louisiana Behavior Analyst Board are exempt from additional checks if they have documentation of having passed a criminal background check conducted by the Louisiana State Police.

- **Exclusions for Providers:**

- Individuals convicted of specific crimes, as outlined in R.S. 15:587.1(C), are prohibited from providing services to students during school hours.

- **Implementation Considerations:**

- Once a parent initiates a request for ABA services, collaborative implementation begins. The following additional considerations, though not exhaustive, will be helpful when creating local policy and supporting the successful implementation of services:
 - **Process to Request and Initiate Services:** The public local governing authority will include procedures for requesting and initiating services, which may include a written request to the school leader, obtaining a signed Consent to Release Form, and initiating a School Building Level Committee (SBLC) meeting to discuss the treatment plan and services. The school system should post publicly the local policy and procedures in alignment with R.S. 17:173.
 - **MOU with ABA provider:** Simultaneously, the school will begin working with the ABA provider to enter an agreement that will outline student privacy requirements and local policy and procedures and collect all required documents (criminal background checks, insurance, etc).
 - **Individualized Education Plan (IEP)/Individualized Accommodation Plan/504:** If the student has an IEP, consider how ABA will work in tandem with the IEP or 504. While on a school campus, a behavioral service provider shall comply with and abide by, the terms of any IEP, IAP/504 Plan, Behavior Management Plan, or Individualized Health Plan applicable to a student who is a patient of the provider.
 - **Scheduling and Teaching and Learning:** While, according to the law, behavioral health services may be provided during any part of the school day, including any and all instructional time in English, reading, mathematics, and science, schools, and providers should work collaboratively to ensure services support a successful teaching and learning experience and allow the student to accomplish both behavior and academic goals.
 - School operations and testing schedules must be considered. Student participation in behavioral services should be scheduled to avoid conflicts with school operations and testing. Specifically, students engaged in required testing should not be removed from the testing environment to receive behavioral services.
 - **Ongoing Collaboration and Communication:** The public local governing authority and school will want to consider who the school-level point person will be and set ongoing communication touchpoints with the provider and parents. Additionally, the school system should provide policy and procedures in alignment with R.S. 17:173 and *Bulletin 135*, including compliant procedures, to parents through the school system website and/or written materials.

SERVICE DELIVERY

- **Permitted Services:**
 - Behavioral health evaluations, assessments, or authorized treatment plans must be allowed on school property to establish medical necessity or provide necessary services.
- **Provider Qualifications:**
 - Services must be delivered by providers licensed, certified, or registered with the Louisiana Behavior Analyst Board.
 - Providers shall maintain general liability insurance coverage in an amount not less than one million dollars per occurrence and one million dollars per aggregate and provide a certificate of insurance naming the public school as the certificate holder.

COMPLIANCE and REPORTING

- **Rules and Regulations:**
 - The State Board of Elementary and Secondary Education (BESE) approved the rules necessary to implement these provisions, and these became final on January 20, 2025.
- **Recordkeeping:**
 - Schools must maintain records of compliance with background checks, insurance requirements, and service documentation.

MONITORING and EVALUATION

- **Progress Reporting:**
 - Policies must include provisions for the behavioral health provider to regularly report on students' progress and student and school safety concerns as related to the student's educational program to the school and parents and guardians.
 - Local policies determine frequency and content, but reports could be issued weekly or bi-weekly.
 - Progress reports could include information on some or all of the following:
 - **Academic Progress:** Include updates on how the student's behavioral health supports are impacting their academic performance.
 - **Behavioral Goals:** Track and report on the student's progress toward specific behavioral goals outlined in the service plan.
 - **Behavioral Interventions:** Detail which behavioral interventions were used, their success, and any adjustments made.
- **Evaluation of Services:**
 - Schools should establish metrics for assessing the effectiveness of the behavioral health services provided.

DISPUTE RESOLUTION

The Louisiana Department of Education maintains a Behavioral Health Service Complaint Procedure outlined in Chapter 7 of [Bulletin 135 - School Health and Safety](#), through which the Department is authorized to investigate allegations of noncompliance with the requirements of Louisiana law concerning the provision of applied behavior analysis by private providers in public schools.

A written complaint must allege a violation that occurred not more than one year prior to the date that the complaint is received by LDOE, and the complaint must include the following:

1. a statement that a public school governing authority has violated a requirement of R.S. 17:173 or this Chapter;
2. the facts on which the statement is based;
3. the signature and contact information for the complainant;
4. if alleging violations relevant to a specific student,
 - a. the name and address of the residence of the student;
 - b. the name of the school the student is attending;
 - c. in the case of a homeless child or youth, as identified in Section 725(2) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)) available contact information for the student and the name of the school the student is attending;
 - d. a description of the nature of the problem of the student, including facts relating to the problem; and
 - e. a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed; and,
5. a proposed resolution of the problem to the extent known and available to the party at the time the complaint is filed.

To submit a complaint or request additional information about the complaint procedures, please contact the LDOE at DOEDisputeResolution@la.gov.

CONTACT INFORMATION

For further guidance and clarification on Revised Statute 17:173, school systems can contact the Louisiana Department of Education at healthyschools@la.gov or specialeducation@la.gov.