



# *State of Tennessee*

## **PUBLIC CHAPTER NO. 589**

### **SENATE BILL NO. 449**

**By Bell**

Substituted for: House Bill No. 713

By Hurt, Whitson, Smith, Helton, Williams

AN ACT to amend Tennessee Code Annotated, Title 49, relative to allocation of per pupil funding to residential mental health facilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-3-370, is amended by deleting the section and substituting instead the following:

(a) An LEA shall allocate funding in an amount equal to the per pupil state and local funds received by the LEA to a state-licensed residential mental health facility on a prorated daily basis for the student's length of stay if:

(1) The residential mental health facility operates as a Category I special purpose school pursuant to the state board of education's rules and provides a minimum of sixteen and one-half (16 1/2) hours per week of educational instructional services to the students, unless the student's IEP provides otherwise;

(2) The student admitted to the residential mental health facility was enrolled in and attended a public school in this state for the one (1) full school year immediately preceding the student's admission to the facility and is enrolled in a public school in this state at the time of admission to the facility; and

(3) The student is admitted to the residential mental health facility under a signed, written order of a qualified physician licensed to practice medicine in this state, the order being based upon medical necessity. An LEA may require a physician attestation form including the patient's name, the dates of admission, and the signature of the physician to be submitted to the LEA prior to disbursement of funds to the facility.

(b) An LEA shall allocate funding in an amount equal to the per pupil state and local funds received by the LEA to an out-of-state residential mental health facility on a prorated daily basis for the student's length of stay if:

(1) There are no facilities in this state with the capacity to deliver the appropriate mental health treatment to the student at the time the student is admitted to the out-of-state residential mental health facility;

(2) The residential mental health facility operates in a state that borders this state;

(3) The residential mental health facility serves at least fifteen (15) Tennessee students per school year;

(4) The department of education determines, prior to the medical placement decision, that the residential mental health facility's educational programs or instructional services meet the same requirements as a Category I special purpose school, as applicable, pursuant to the state board of education's rules;

(5) The residential mental health facility provides a minimum of sixteen and one-half (16 1/2) hours per week of educational instructional services to admitted students, unless the student's IEP provides otherwise;

(6) The residential mental health facility complies with all applicable health and safety laws, regulations, and codes of the state and locality in which it is located;

(7) All teachers at the residential mental health facility are licensed by the educator licensing authority of the state in which the facility is located;

(8) The residential mental health facility has at least one (1) teacher with an endorsement in special education or a certification that the department of education determines to be equivalent to an endorsement in special education in this state, to provide special education and related services to admitted students;

(9) The residential mental health facility has a sufficient number of teachers with an endorsement in special education or a certification that the department of education determines to be equivalent to an endorsement in special education in this state, to comply with each student's IEP;

(10) The residential mental health facility reports the attendance of each admitted student to the public school in which the student is enrolled;

(11) The residential mental health facility follows the admitted student's IEP as written at the time of the medical placement decision, and as subsequently amended by the student's IEP team during the student's stay at the facility;

(12) The student admitted to the residential mental health facility was enrolled in and attended a public school in this state for the one (1) full school year immediately preceding the student's admission to the facility, is enrolled in a public school in this state at the time of admission to the facility, and has an active IEP from an LEA in this state at the time of the medical placement decision; and

(13) The student is admitted to the residential mental health facility under a signed, written order of a qualified physician licensed to practice medicine, the order being based upon both medical necessity and the most appropriate medical services for the child. An LEA may require a physician attestation form including the patient's name, the dates of admission, and the signature of the physician to be submitted to the LEA prior to disbursement of funds to the facility.

(c) If an LEA allocates funds to an out-of-state residential mental health facility pursuant to this section, then the LEA and the department of education are authorized to monitor the out-of-state residential mental health facility for compliance with this section, an individual student's IEP, and all other applicable state and federal laws.

(d) If the out-of-state residential mental health facility fails to comply with the requirements of subsection (b), then the LEA shall cease the allocation of funding as provided in this section.

(e) The state board of education shall promulgate rules to establish procedures for approving educational programs or instructional services provided by out-of-state residential mental health facilities and for the allocation of funds to out-of-state residential mental health facilities for purposes of this section. The rules must be promulgated according to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(f) The funding specified in subsections (a) and (b) is in addition to funds allocated pursuant to federal law and regulation, including, but not limited to, Title I and ESEA funds.


(g) This part must not be used or construed to circumvent the requirements of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.).

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it, and applies to students admitted to an out-of-state mental health facility for the 2021-2022 school year and each school year thereafter.

SENATE BILL NO. 449

PASSED: May 5, 2021

  
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RANDY McNALLY  
SPEAKER OF THE SENATE

  
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CAMERON SEXTON, SPEAKER  
HOUSE OF REPRESENTATIVES

APPROVED this 27<sup>th</sup> day of May 2021

  
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BILL LEE, GOVERNOR