NO K-12 SCHOOL-BASED HEALTH CENTERS

Deborah Campbell

MARCH 17, 2024
NO SCHOOL-BASED HEALTHCARE

No School-Based Healthcare Position Paper

3.17.2024 authored by Deborah Campbell

What is K-12 School-Based Health Centers (or Clinics)?

School-Based Health Centers (SBHCs) have a federal agenda to rapidly expand the use of SBHC—access to your children without your knowledge—throughout America. This agenda has staying power or longevity because government agencies are funneling millions of grant dollars for school-based health services into states across the U.S.

The School-Based Health Alliance (SBHA) is a nonprofit organization that advances and informs more than 2,500 school-based health care programs, enabling them to provide high-quality care to the nation's most vulnerable children. The Alliance also supports a network of 22 state affiliates, collaborates with partner organizations in the school health field, and serves as a resource to policymakers in the education and health sectors. School-Based Health Alliance Celebrates Introduction of "Hallways to Health Care Act" (yahoo.com)

K-12 SBHCs are student-focused socialized healthcare services on school campus, and off campus and modeled after the CDC's Whole School, Whole Community, Whole Child (WSCC).

SBHC covers medically necessary health related and medically necessary rehabilitative services. This encompasses primary medical, dentistry, vision, and medically necessary therapeutics such as mental health therapy, physical therapy, occupational therapy, and speech language therapy.

Liberal states fully implement SBHCs, meaning, a full-service center for medical, mental health, dental, vision, and access to pharmaceuticals. In conservative states, SBHC is implemented in two and sometimes three phases. For example, phase 1, state codify school reimbursement for related services provided to children with an individualized Education Plan (IEP); Phase 2, state-codify school based mental health education and services; and Phase 3, state-codify school based medically necessary services.

Regarding Medicaid and private insurance reimbursements to K-12 public schools: The next page is subsection (d) of the regulation, 34 CFR § 300.154, as revised with the deleted portions struck through and the new additions in italics. Within subsection (d) other critical portions were not changed and are emphasized in bold. This statutory merger between Medicaid and private insurance and K-12 public schools raises concerns for intentional and unintentional fraud.

In several states, including Oklahoma, schools have been found guilty of Medicaid fraud, which includes the abuse of Individualized Educational Plans (IEPs).

To comprehend IEP abuse, it is necessary to understand the eligibility process and purpose of an IEP, which is outlined in the Individuals with Disabilities Education Act (IDEA):

1. A child must have one of the 13 recognized disabilities in IDEA.
2. This disability must adversely affect learning (in need of special education).
3. Special education is defined as “Specially designed instruction” (IDEA).

4. An IEP must include related services that are educationally necessary, which means that they ensure that the child receives a Free and Appropriate Public Education (FAPE).

The purpose of an IEP can be found at Individuals with Disabilities Education Act (IDEA) section 300.34, Also, related services are listed separately in the IEP from supplementary aids and services.

According to IDEA, students who are ineligible for special education and require medically necessary therapeutic services are not eligible for an IEP.

Also, non-educational related services are to be listed separate and attach with the IEP from supplementary aids and services.

According to the Individuals with Disabilities Education Act (IDEA) section 300.34, the purpose of related services is to help a child:

- Make progress toward annual IEP goals.
- Participate and make progress in the general education curriculum as well as extracurricular and other nonacademic activities.
- Be educated alongside and participate with other children with and without disabilities.

No School-Based Healthcare Position Paper

3.17.2024 authored by Deborah Campbell

Marketing for the "Buy-In:"

Sustainability requires the buy-in of the parents, teachers, and community. Under the guise to advance health equity "School-based health centers (SBHCs) bring critical, developmentally appropriate services to children and adolescents where they spend most of their waking hours." School-Based Health Centers in an Era of Health Care Reform: Building on History - PMC (nih.gov)

The following are examples of the "buy in:"

1. Parents can't be trusted to meet the needs of their child.
2. According to the SBHC proponents, they can ensure the child's needs are met.
3. Convenience for the parents…child can easily walk across the campus for services without the parent's presence.
4. You need to address the increase of depression and anxiety as well as the specific needs for Trans and LGBTQ children, e.g., trauma, suicidal ideation, depression, anxiety, and bullying.
5. Improvement of academic literacy, standardized test scores, and attendance as well as reduction of suspensions, juvenile justice involvement and substance abuse.

Despite the 30 plus years of expanding school-based health care and enormous financial investments, evidence shows a significant and ongoing decline with the K-12 public.

The Merger of SBHC and Federally Qualified Health Centers (FQHC)

Federally Qualified Health Center (FQHC) has recently become the dominant sponsor for SBHC. The sustainability of SBHCs requires the support, sponsorship, and funding through FQHC. SBHCs receive better reimbursement rates from Medicaid and have avenues for funding through federal and state safety net grant programs, thus improving their sustainability. However, it is also likely that FQHCs are seeking to establish school sites to reach underserved children and increase community engagement and buy-in to serve broader populations. The number of SBHCs doubled from 1,135 in 1998–99 to 2,584 in 2016–17. https://www.healthaffairs.org/doi/10.1377/hlthaff.2018.05472

As part of the Consolidated Appropriations Act, 2021, Congress enacted the School-Based Health Centers Reauthorization Act of 2020, which extended authorizations for federal funding for school-based health centers through 2026. School-Based Health Centers Reauthorization Act of 2020 (2020; 116th Congress H.R. 2075) - GovTrack.us

Each school-based health centers or clinic (SBHC) is administered and sponsored by federally qualified health center (FQHCs) that receive federal dollars, grant money, and enhanced Medicaid reimbursements to fund and oversee the maintenance and sustainability of the centers. https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8191451/

Constitutionality

The social agenda for school-based health centers to advance health equity. This social agenda conflicts with the U.S. Constitution and Oklahoma Constitution. The US Supreme Court has not recognized constitutional and legal rights for individuals. Americans have no legal right or Constitutional right to school-based healthcare.

Under the Oklahoma Constitution, there's no constitutional right to school-based healthcare. In fact, the state constitution clearly states that the primary purpose of public schools is academics and free from sectarian control. There is no mention of state funded healthcare clinics on K-12 public school campuses. Furthermore, Title 210.State Department of Education. Chapter 1. State Board of Education. Subchapter 1. General Provisions 210:1-1-1. Declaration of Foundational Values says:

"...**academics are the primary purpose of public schools**... It cannot be said that a school is functioning as a school unless its students are made literate, meaning they are able to read; able to write; able to perform arithmetic and fundamental mathematics; able to comprehend literature; able to compose legible and coherent texts; able to politely and specifically discuss thoughts on complex ideas; able to seek out knowledge of a subject independently; able to think critically for themselves; and ultimately able to honestly navigate the world adeptly and independently as educated individuals...The ultimate responsibility of children's education rests firmly upon the shoulders of their parents.

All responsibilities of an educator and servant of public education are responsibilities delegated from these parents and guardians, and such responsibilities are to be taken with full sobriety and respect as is befitting the care and training of all children."

sde.ok.gov/sites/default/files/Rule Text 210.1-1-1, 7.pdf

Harm

The U.S. Department of Education and Congress are working together to eliminate parental consent for SBHCs. Parents are the children's biggest advocates. By not requiring parental presence for appointments, children lose their biggest advocate. Studies show that parental engagement results in improved outcomes.

Marketing used by the proponents such as National Institutes of Health (NIH), WSCC, WHO, medical, and education industries:

1. A "convenience" for parents, not requiring to be present during treatment of their child. An absent parent creates a power imbalance. Parents must be present at the time of treatment to prevent a power imbalance.
2. Schools will ensure every child's mental health and medical needs are met.

SBHC doesn't require the presence of the parent during delivery of service. This leaves the decision making to the healthcare provider. But **medical ethics do not allow physicians to treat minors without a parent or guardian present**, which is why parents cannot simply drop their child off at the doctor's office and come back later to collect

them. These decisions may involve gender affirming therapy, vaccines, immunizations, puberty blockers, hormones, birth control, and abortion pills.

Parents must be present at the time of treatment to **prevent a power imbalance**, e.g., Adult vs. child, expert vs. novice, school vs. student. To put it another way, medical ethics do not allow the doctor to make medical decisions on behalf of the child, Pre-consent is insufficient.

SBHC encompasses the provision of school-based mental health education and services. This includes gender affirming therapy, gender affirming medical care, and LGBTQ curriculum. The program frequently administers a subjective group assessment to all students, e.g., Oklahoma Prevention Needs Assessment (OPNA). When SBHC is linked with to school-based mental health education and services it can lead to social contagions, delayed trauma, over therapy, and creating unhealthy children.

Conflict of Interests

Ethical conflict. Medical ethics do not allow physicians to treat minors without a parent or guardian present, which is why parents cannot simply drop their child off at the doctor's office and come back later to collect them.

Why would mental health and medical professionals violate their ethics by making an exception to treat children without the presence of the parents?

No School-Based Healthcare Position Paper

3.17.2024 authored by Deborah Campbell

In Oklahoma, some K–12 public schools are busing children to medical professionals for treatment without the presence of their parents. Some schools use mobile clinics that arrive at schools for annual checkups, immunizations, and more.

For 30 plus years, special interests and the federal government have skillfully influenced and taken control of K-12 public schools by implementing socialized healthcare, also known as school-based healthcare education and services.

K-12 health education began as nutrition and physical education. In 1960, it shifted to diverse topics such as menstruation and discussions about puberty. Later, content expanded to sexual intercourse, birth control, nocturnal emission, and abortions (sex education). Fast forward, K-12 health education is now being utilized as a Trojan Horse for social change (indoctrination), comprehensive sexual education, gender ideology, school-based mental health education and services. The expansion of K-12 health education is linked to a decrease in academic performance, a significant increase in social contagions, and behavioral problems.

SBHC conflicts with direct classroom instruction resulting in the loss of direct classroom instruction and tasks. The medically necessary therapeutics such as mental health therapy, physical therapy, occupational therapy, and speech language therapy take away from learning and time on task by being pulled from direct instruction. These outside services must be provided after school hours and off campus to prevent the interruption of direct classroom instruction, tasks, and activities. **You can't make up for lost time**.

No School-Based Healthcare Position Paper

3.17.2024 authored by Deborah Campbell

School based mental health education and services creates:

1. Group think.
2. Delayed trauma.
3. Creates unhealthy children.
4. Overtreatment of children.

Overtreatment refers to interventions that do not benefit the patient or where the risk of harm from the intervention is likely to outweigh any benefit the patient will receive. *The Pitfalls of Overtreatment: Why More Care Is Not Necessarily Beneficial - PMC (nih.gov)*

Abigail Shrier is an investigative journalist and author, her findings were based on extensive research and interviews with doctors, parents, therapists, and young people. She enumerates the dangerous side effects of unnecessary or poorly executed mental health care:

> "Mental health care can be lifesaving when properly applied to children with severe needs, but for the typical child, the cure can be worse than the disease... the mental health industry has transformed the way we teach, treat, discipline, and even talk to our kids...most of the therapeutic approaches have serious side effects and few proven benefits.
>
> - Talk therapy can induce rumination, trapping children in cycles of anxiety and depression.

- Social Emotional Learning handicaps our most vulnerable children, in both public schools and private.
- "Gentle parenting" can encourage emotional turbulence – even violence – in children as they lash out, desperate for an adult in charge.

SBHC education and services increase mental health and behavioral issues by exposing children not experiencing trauma, anxiety, depression, or gender dysphoria. This environment subject children to unnecessary or unwanted medical treatments and pharmaceuticals.

When K-12 schools (SBHC) converge with the medical industry and special interest organizations, it allows accessibility to children with or without parental consent and knowledge. Other concerns with SBHC are the increase of unhealthy children, social contagions, and medical treatment without the parent's knowledge and consent.

SBHC shifts the focus from education and academics to social and emotional care. When schools merge with medical organizations, pharmaceutical companies, or healthcare providers, conflicts of interests arise. For this reason, K-12 public schools must be separate from the healthcare industry.

School Based Health Care Medicaid Fraud

The convergence of SBHC and the medical industry encourages intentional or unintentional Medicaid, including private insurance, e.g., dual billing for non-education related services; services not provided, and fraudulent IEPs used to bill insurance. For the

purposes of this paper, Medicaid will include SoonerCare, Oklahoma School Based Medicaid, and State Children's Health Insurance Program (SCHIP).

Intentional or unintentional fraudulent IEPs are created for students **not** eligible for special education per IDEA. The fraudulent IEPS are used as "documentation" for a student to receive medically necessary services via the public school, rather than the parents ensuring their child's medical needs are met and paid for by way of SoonerCare, Medicaid, or private insurance.

Prior to the Department of Education (DOE) revision of 20 USC § 1412, thereafter, The Office of Inspector General (OIG) found and published audit reports regarding SBHC fraud.

There is an abundance of evidence from the Office of Inspector General (OIG) about SBHC and Medicaid fraud, including the abuse of IEPs for ineligible students. This information can be found online for every state, including Oklahoma.

On September 28, 2011, the DOE issued proposed regulations relating to a revision of a school system's right to access Medicaid and "or other public benefits or insurance programs." The revised regulation is based on a portion of the Act in Section 612, which, in the United States Code is in Section 1412, titled "State Eligibility." The legal citation for that section is 20 USC § 1412.

The DOE revised Section 154(d) of Part 300 in Volume 34 of the Code of Federal Regulations, (34 CFR § 300.154(d)). The essence of the revision permits "**a first-time consent"** from the parent to access the Medicaid benefits. Thereafter no further consent is

needed to access Medicaid benefits, but the parent shall receive an annual notice that benefits are being accessed by the school district.

Pete Wright, Esq., specializing in Special Education Law, published his legal opinion concerning the revision will increase Medicaid fraud and private insurance fraud (intentionally or unintentionally).https://youtu.be/mTFmKd9ths4?si=4nYPR3oMxjhhvGne

SBHC schemes drain valuable resources from the federal and state healthcare systems, e.g., Oklahoma Medicaid, Oklahoma School-Based Medicaid, and SoonerCare. For the purposes of this paper, I will use the word Medicaid. Examples of fraudulent IEPs:

1. IEPs given to students **not eligible** for special education services per the Individuals with Disabilities Education Act (IDEA). The IEP is used for Medicaid enrollment and billing for medically necessary related services.
2. IDEA eligible students' IEPs are used for medically necessary services. *According to IDEA, only educationally related services can be written in an IEP.*
3. Schools dual billing Medicaid for services paid for by IDEA.
4. Schools bill Medicaid for services not rendered by the school-based provider.

In Oklahoma, Okla. Admin. Code § 317:30-5-1020.gives SBHC Medicaid oversight to Oklahoma Health Care Authority (OHCA). However, this statute conflicts with IDEA regarding eligibility, purpose for an IEP, and only educationally necessary related services

are to be written in an IEP. The language in this statute contributes to intentional or unintentional Medicaid fraud.

The Oklahoma Health Care Authority (OHCA) and Medicaid incites fraud via Okla. Admin. Code § 317:30-5-1020-general provision. (a) School-based services are medically necessary health-related and rehabilitative services that are provided by a qualified school provider to a student under the age of twenty-one (21) **pursuant to an Individualized Education Program (IEP)**, in accordance with the Individuals with Disabilities Education Act (IDEA). Payment is made to qualified school providers for delivery of school-based services, **provided that such services are, among other things, medically necessary** and sufficiently supported by medical records and/or other documentation, as explained below."

There's ample evidence of SBHC fraud nationwide. In 2002, Office of Inspector General (OIG) audit for Oklahoma school-based healthcare found:

> " ...The claims for the remaining three beneficiaries were billed incorrectly because these beneficiaries and services were IDEA eligible and should have been billed under the IDEA program. Based on a projection of the statistical sample, we estimated at least $1,902,390 in federal financial participation was for services not in compliance with federal guidelines and CMS policy.
>
> We recommended Oklahoma:

1. Make a financial adjustment of $1,902,390 to CMS for the federal share of payments made for services provided in state fiscal year 2000 that were not in compliance with federal guidelines and CMS policy.

2. Review the claims of the remaining beneficiaries with services billed under the non-IDEA system and make the appropriate adjustments.

3. Implement better oversight and guidance related to Medicaid school-based health services.

4. Review prior and future periods not covered in the audit period and make appropriate adjustments."

In 2003, OIG published their Oklahoma audit and found the following:

" We identified issues, which resulted in unallowable costs totaling at least ***$1,243,446*** *federal share. Further, school districts did not obtain referrals for occupational therapy services or referrals for speech therapy services, which resulted in unallowable costs totaling at least $1,089,328 federal share.*

We could not reasonably determine whether school districts met the state share requirement, which totaled ***$2,801,658*** *due to the various errors identified with their calculations, inclusion of inappropriate expenditures, and use of inappropriate funding sources. In addition, we identified the following areas of concern needing corrective action:*

1. *The rates associated with school-based Medicaid services.*
2. *Billing agency involvement in school districts' school-based Medicaid programs.*
3. *The school-based health service providers' qualifications."*

For the purposes of this analysis, we reviewed 33 OIG reports conducted over a 21-year period (2000-2021). The total recommended refund amount was **$1,184,920,464**" OIG Report (healthystudentspromisingfutures.org)

Oklahoma School- Based Health Services

The Oklahoma Constitution and the Oklahoma State Department of Education (OSED) says the primary purpose of K-12 public schools is academics.

According to TITLE 210. State Department of Education Chapter 1. State Board of Education Subchapter 1. General Provisions 210:1-1-1. Declaration Of Foundational Values:

> *"e) Academics is the primary purpose of public schools, teachers, and public instruction. It cannot be said that a school is functioning as a school unless its students are made literate, meaning they are able to read; able to write; able to perform arithmetic and fundamental mathematics; able to comprehend literature; able to compose legible and coherent texts; able to politely and specifically discuss*

thoughts on complex ideas; able to seek out knowledge of a subject independently; able to think critically for themselves; and ultimately able to honestly navigate the world adeptly and independently as educated individuals… (f) All responsibilities of an educator and servant of public education are responsibilities delegated from these parents and guardians, and such responsibilities are to be taken with full sobriety and respect as is befitting the care and training of all children."

Like the rest of the nation, Oklahoma K-12 public schools decided to forego classical education and focus progressive education and socialized medicine funded by the federal government, U.S. Department of Education, and third-party vendors.

Oklahoma K-12 Health Education has been the Trojan Horse for progressivism, e.g., comprehensive sex education, gender ideology, and mental health education for the purpose of changing the social norms and destruction of the parent-child relationship.

State Superintendent Joy Hofmeister spent her reign quietly converging K-12 public schools with medical, mental health, Medicaid, and private insurance (SBHC) industries. She began with codification of SB 926 (sex education) authored by Senator Kay Floyd.

In 2021-2022 legislation codified the foundation for the Oklahoma K-12 SBHC by way of SB89, HB 1568, HB 4106, and HB 1103. The Oklahoma State Department of Education (OSDE) used a two-phase implementation approach and selected the Whole School, Whole Community, Whole Child, (WSCC) model and funded by state, federal, and the AWARE project.

> *"The purpose of the AWARE grant is to build or **expand the capacity** of State Educational Agencies in partnership with State Mental Health Agencies and Local Education Agencies to 1) increase awareness of mental health issues among students 2) provide training to school personnel and other adults who interact with students to detect and respond to mental health issues; and 3) connect students, who may have behavioral health issues, serious emotional disturbance or serious mental illness, and their families to needed services. This model allows the education institutions to determine what educational mental health information is age appropriate; determine what is in the best interest for your child; and provide mental health services on the school premises, includes gender affirming therapy."*
>
> *OK AWARE | Oklahoma State Department of Education*

Due to the OK statutory language (by design), Oklahoma SBHC services are inconsistent statewide, e.g., HB 4106 requires **each** public school district in collaboration with a local mental health provider to define "mental health crisis" and how those crises are identified. Again, program consistency is problematic.

Currently, some K-12 public schools use a mobile clinic, some provide on campus services, and some transport the students to the healthcare providers. Many schools treat students without the parents' consent and knowledge.

Other Concerns

Oklahoma school-based mental health education and services uses Cognitive Behavioral Therapy (CBT) and gender affirming therapy. The Education components includes LGBTQ inclusive curricula; trauma; anxiety; depression, substance abuse, and "health sexual life is a Human Right." This is linked to social contagions and delayed trauma.

CBT is a therapeutic approach that focuses on identifying and modifying negative thought patterns and behaviors. It is widely used in various settings, including schools, to address a range of mental health issues. If applied to all students, CBT will deter individualism, and create group thinking or collectivism. The use of gender affirming therapy will "buy time" for minors to move forward with gender affirming medical and pharmaceuticals when or if Poe v. Drummond is rescinded.

May 2023, SB 613 was signed into law to prohibit the gender affirming care of minors. To pass this bill, Senator Daniels (author) compromised by permitting gender affirming therapy of minors. After Governor Stitt signed SB613 into law, the ACLU filed a lawsuit, Poe v. Drummond. If the ACLU rescinds SB613, students receiving gender affirming therapy can advance to gender transitioning hormone, blockers, and surgical.

SBHC Funding

The OKHC funding sources are primarily federally funded by way of grants, including FQHC grants. For the current State Superintendent of Education to cease participation in the K-12 SBHC programs (sustained with federal money), the State Superintendent must

obtain permission from the Oklahoma Senate Pro Tempore and the Oklahoma House Speaker. Per SB 36x (2023) SECTION *20 "The State Department of Education shall not decline, refuse participation in, or choose not to apply for any federal grant funding that had been received by the Department prior to FY 2023 without joint approval from the President Pro Tempore of the Oklahoma State Senate and the Speaker of the Oklahoma House of Representatives."* Without the signature of Governor Stitt, this bill became law June 2, 2023. View Document - Official Oklahoma Session Laws (westlaw.com)

From 2018-2022 Hoffmeister "secured" the funding for SBHC, specifically, school - based mental health education and services:

2018: School Mental Health Grants **$ 12.5 million**.

2019: Safety and Mental Health Grants **$1.7 million.**

2020: Covid Relief **$15.2 million**; Mental Health **$2 million;** Incentive **$16 million.**

2021: Mental Health Needs **$ 9 million;** Counselors and Other Mental Health Providers **$36 million**; OK Counselor Corps **$35 million**; Health Education **1.16 million**; Combat Teacher Shortage **$4.2 million**; and Red Bud School Funding Act **$38.5 million.**

2022: Edge Grants Academic Success **$8.4 million**; School Districts & Early Career Teachers **$5.3 million**; Teachers 2.0 grants **$6 million**; and Community Extended Learning **$18 million**.

The above grants raise transparency and accountability questions because the relevant 2021-2022 statutes' implementation timelines were 2023.Another words, what did Superintendent Hoffmeister do with this money? If this money was spent prior to program development (2023), what was this money spent on? Did any or all go to the administration?

The Oklahoma SBHC Convergence

Oklahoma defines school-based healthcare as "medically necessary health-related and rehabilitative services… pursuant to an Individualized Education Program (IEP), in accordance with the Individuals with Disabilities Education Act (IDEA)." [Okla. Admin. Code § 317:30-5-1020].

Oklahoma, Okla. Admin. Code § 317:30-5-1020. gives SBHC Medicaid oversight to Oklahoma Health Care Authority (OHCA). However, SBHC eligibility elements in this statute conflicts with IDEA. The conflict for a student to qualify for an IEP, is they must meet the special education eligibility criteria set forth in IDEA, and the federal regulation specifies that related services written in an IEP must be educationally necessary (not medically necessary). However, Oklahoma, Okla. Admin. Code § 317:30-5-1020 (a) lacks specificity which triggers improper use of IEPs, e.g., giving an IEP to a student ineligible for special education. Additionally, intentional or unintentional Medicaid fraud is possible.

As far back as 2002 and 2003, The Office of Inspector General (OIG) audit found OK school-based Medicaid fraud and specified the amount of money to be paid back to

Medicaid and for misuse of IEPs for medically necessary services. There is no evidence of non-compliant schools taking corrective actions, e.g., pay back the money, and actions to correct the non-compliance with IDEA. Since 2003, there is no evidence of IDEA compliance reviews (IEPs and money) and no evidence of OIG audits after 2003.

Resolution

Oklahoma K-12 public schools must purge themselves of progressive education and SBHC to improve academics and education by way of classical education. They must stay within their scope of academics and education while remaining separate from socialized healthcare. We, No School-Based Health Services, recommend the following:

1. OSDE must create rules and policies to redefine K-12 Health Education by limiting the scope to nutrition and physical education. This will prevent ongoing exploitation of health education for progressivism.
2. Pass legislation to limit Oklahoma K-12 Health Education to nutrition and physical education.
3. Rescind the following statutes:

Okla. Admin. Code § 317:30-5-1020 and 317:30-5-1021

70 OK Stat § 24-158 (2022) (formerly HB1103)

70 OK Stat § 11-103.13 (2022) (formerly SB 89)

70 OK Stat § 11-103.9b (2022) (formerly HB1568)

4. Amend the unconstitutional law known as SB 36x Section 20 (2023). Removing Section 20 will return the duties, responsibilities, and legal authority to the State Superintendent of Education thereby limiting the scope of the Oklahoma Pro Tempore and Oklahoma House Speaker. View Document - Official Oklahoma Session Laws (westlaw.com)
5. Amend 70 OK Stat § 24-159 (formerly HB 4106) striking B 6. G and Section 24-158. A-H. This removes the use of Oklahoma Prevention Needs Assessment Survey (OPNA), Pro Tempore, and House Speaker from the annual program review.
6. Corrective action regarding constitutionality by amending 2023 Okla. Sess. Law Serv. 1st Ex. Sess. Ch. 46 (S.B. 36X) (WEST) by striking Section 20
7. OSDE Rules must prohibit K-12 schools to be OCHA qualified school providers by way of Rules and Policies.
8. Perform a forensic audit for accountability and transparency purposes for Hoffmeister's grants 2018-2022.

APPENDIX

I. **Anti-parental agenda. SBHCs and the anti-parent agenda - STAND FOR HEALTH FREEDOM**

II. TITLE 210. State Department of Education Chapter 1. State Board of Education Subchapter 1. General Provisions 210:1-1-1. Declaration Of Foundational Values. (e), (f)

III. Schools + Medicaid – Parents = No informed consent, take action now - STAND FOR HEALTH FREEDOM *Another source of intentional or unintentional fraud is the use of IEPs for ineligible children.*

IV. **TITLE 210. STATE DEPARTMENT OF EDUCATION CHAPTER 1. STATE:** sde.ok.gov/sites/default/files/Rule Text 210.1-1-1, 7.pdf

V. "School-based health centers (SBHCs) bring critical, developmentally appropriate services to children and adolescents where they spend most of their waking hours." School-Based Health Centers in an Era of Health Care Reform: Building on History - PMC (nih.gov)

VI. 2002, Office of Inspector General (OIG) Oklahoma school-based healthcare audit. HHS/OIG-Audit - "Audit of Oklahoma Medicaid School-Based Services Provided Free to Other Students and Not Exempt Under the Individuals with Disabilities Education Act," (A-06-01-00077)

VII. **2003, Office of Inspector General (OIG) Oklahoma school-based healthcare audit** HHS/OIG, Audit -"Audit of Medicaid School-Based Services in Oklahoma,"(A-06-01-00083)

VIII. **OHCA Policies and Rules Main Page.317:30-5-1020.** General provisions [Revised 09-01-21]. (a) "Oklahoma Health Care Authority School-based services are medically necessary health-related and rehabilitative services that are provided by a qualified school provider to a student under the age of twenty-one (21) pursuant to an Individualized Education Program (IEP), in accordance with the Individuals with Disabilities Education Act (IDEA). Payment is made to qualified school providers for

delivery of school-based services, provided that such services are, among other things, medically necessary and sufficiently supported by medical records and/or other documentation, as explained below."

IX. **OCHA. PART 103. QUALIFIED SCHOOLS AS PROVIDERS OF HEALTH-RELATED SERVICES (oklahoma.gov) 317:30-5-1020. General provisions (oklahoma.gov).** "(3) An annual evaluation located in or attached to the IEP that clearly demonstrates, by means of the member's diagnosis and any other relevant supporting information, that school-based services are medically necessary, in accordance with OAC 317:30-3-1(f). Evaluations completed solely for educational purposes are not compensable. Evaluations must be completed annually and updated to accurately reflect the student's status. Any evaluation for medically necessary school-based services, including but not limited to, hearing and speech services, physical therapy, occupational therapy, and psychological therapy, must include the following information:"

X. Oklahoma school-based healthcare statute.

Section 317:30-5-1020 - General provisions, Okla. Admin. Code § 317:30-5-1020 | Casetext Search + Citator

XI. **Attorney Pete Wright's concerns about Medicaid fraud and abuse of IEPs:**

regs.medicaid.new (wrightslaw.com) and FT 000013 L184 VR385 16x9 3m30s 240118O TV77 (youtube.com)

XII. School-Based Health Alliance Celebrates Introduction of "Hallways to Health Care Act" (yahoo.com)]

XIII. **Report for Congress Individuals with Disabilities Education Act**

(IDEA) and Medicaid. January 31, 2003.Richard N. Apling and Elicia J. Herz

Specialists in Social Legislation Domestic Social Policy Division: Individuals with Disabilities Education Act (IDEA) and Medicaid (congressionalresearch.com)

"While IDEA mandates special education and related services, it is not intended to pay for the total cost of this education and these services. One approach Congress has taken to ease the burden on states and school districts of fulfilling the requirements of IDEA is to allow the use of funds available under Medicaid, a federal-state entitlement program providing medical assistance to certain low-income individuals, to finance health services delivered to special education students who are enrolled in Medicaid. However, for various possible reasons, Medicaid funds appear to account for only a small proportion of expenditures for special education and related services. These reasons include: most IDEA children are not enrolled in Medicaid; federal privacy requirements may hinder identifying which IDEA children are participating in Medicaid; in-school health services may often be of relatively low cost; Medicaid financial requirements may reduce reimbursement to schools; and Medicaid's complexities may make many school districts unwilling or unable to access this funding source."

"Since some might oppose any changes to Medicaid that would result in increased state costs, other alternatives might be considered. For example, creating a funding relationship between IDEA and the State Children's Health Insurance Program (SCHIP) could be examined. In addition, federal privacy requirements might be amended to facilitate the identification of children with disabilities served under IDEA who are also enrolled in Medicaid. Finally, IDEA

amendments could be considered, such as targeting some funding for children with disabilities who require expensive health-related services in order to attend school."

XIV. **Determination of eligibility under IDEA** 300.8 Child with a disability.

XV. **300.320 Definition of individualized education program:** If a child is determined to have one of the 13 disabilities identified in IDEA, but **only needs a related service** (and not special education), they are **not considered a child with a disability** under IDEA. (ii) To ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the public agency that apply to all children.

XVI. **Eligibility categories**

The Individuals with Disabilities Education Act: A Comparison of State Eligibility Criteria (congress.gov)

The 13 disability categories under IDEA (understood.org)

13 Categories of Disability Under IDEA Law - B.I.G. Solutions, LLC (behavioralinspiredgrowth.com)

XVII. **Who Is Eligible for Special Education Services? Eligibility for Special Education Services: Articles, Resources and Decisions from Wrightslaw :**

" To be eligible for special education, a child must have a disability and must need special education services and related services. If a child has a disability but does not need special education services, the child is not eligible for special education under IDEA but may be eligible for protections under Section 504 of the Rehabilitation Act.

These issues are confusing. We suggest that you read the definitions of "Child with a Disability" and "Special education" in Wrightslaw: IDEA 2004."

XVIII. **IEP Content. US Department of Education.** Archived: Guide to the Individualized Education Program

XIX. **Determination of eligibility under IDEA**

Sec. 300.306 Determination of eligibility - Individuals with Disabilities Education Act

Sec. 300.311 Specific documentation for the eligibility determination - Individuals with Disabilities Education Act

XX. Eligibility categories

Sec. 300.39 Special education - Individuals with Disabilities Education Act

The 13 disability categories under IDEA (understood.org)

XXI. **IDEA definitions.** When Medical services are considered an educational related service only under specific conditions: when they are provided (a) by a licensed physician, and (b) for diagnostic or evaluation purposes only. This is clear from the definition at §300.34(c)(5): *Medical services* mean services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

XXII. **Physical Therapy**

IDEA defines physical therapy as "services provided by a qualified physical therapist" [§300.34(c)(9)]. These services generally address a child's posture, muscle strength, mobility, and organization of movement in educational environments.

XXIII. **Psychological Services** §300.34(c)(10) as follows:(10) *Psychological services* include—(i) Administering psychological and educational tests, and other assessment procedures. (ii) Interpreting assessment results.

(iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning.(iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations.(v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and (vi) Assisting in developing positive behavioral intervention strategies.

Psychological services are delivered as a related service when necessary to help eligible children with disabilities benefit from their special education. In some schools, these services are provided by a school psychologist, but some services are also appropriately provided by other trained personnel, including school social workers and counselors.

XXIV. **[§300.324(2)(i)].** The fact that psychological services can include "assisting in developing positive behavioral intervention strategies" does not mean that only the professionals who provide psychological services may provide such assistance or that they are even necessarily qualified to do so. As the Department states: "There are many professionals who might also play a role in developing and delivering positive behavioral intervention strategies. The standards for personnel who assist in developing and delivering positive behavioral intervention strategies will vary depending on the requirements of the State. Including the development and delivery of positive behavioral intervention strategies in the definition of *psychological services* is not intended to imply that school psychologists are automatically qualified to perform these duties or to prohibit other qualified personnel from providing these services, consistent with State requirements." (71 Fed. Reg. at 46574)

XXV. Healthy Minds' HB 4106 signed into law (healthymindspolicy.org)

XXVI. Healthy Minds' Fact Sheet Microsoft Word - School Crisis one-page.docx (website-files.com)

XXVII. The Disability Must Adversely Affect Education Performance

OSEP has published other opinion/policy letters on these topics since "Letter to Felton." In a 2010 opinion letter to Redacted, OSEP reiterated their long-held position that children with "high cognition" who have disabilities such as ADD/ADHD, Asperger's Syndrome, or specific learning disabilities that adversely affect educational performance, and who need special education and related services "are protected under IDEA ..."

1. Eligibility: Children with disabilities are entitled to both special education and related services. These services are designed to address the unique needs of each child and facilitate their learning experience.
2. Delivery and Coordination: Related services can be delivered both inside and outside the school setting. While many services are provided within the school premises, there are instances where services may be contracted with providers outside the school district.

FIND OUT HOW YOU CAN SUPPORT OUR EFFORTS BY CONTACTING:

DEBORAH CAMPBELL

918-770-2994

BARDARI5@YAHOO.COM