

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 4109

By: Vancuren

AS INTRODUCED

An Act relating to school employees; creating an Education Employee Assistance Program within the Department of Mental Health and Substance Abuse Services; authorizing program to assist school districts in managing certain employees; permitting program to provide additional services; requiring program participation to be voluntary; allowing Department to contract with certain entities; directing Board of Mental Health and Substance Abuse Services to promulgate rules and establish evaluation methods; construing provisions of section; subjecting existing programs to compliance with promulgated rules; mandating separate maintenance of program records; prescribing records to be confidential and subject to subpoena; providing exception for confidentiality; requiring participant to have access to his or her program records; construing provision related to school district's disciplinary authority; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 5-117.7 of Title 70, unless there is created a duplication in numbering, reads as follows:

1       A. An Education Employee Assistance Program shall be created  
2 within the Department of Mental Health and Substance Abuse Services.  
3 The program may provide assistance to public school districts in the  
4 management of employees whose personal problems may have a negative  
5 impact on job performance. The program may also provide for  
6 assessment, referral, consultation, and problem resolution  
7 assistance to school district employees and their family members  
8 seeking corrective help with medical or mental health problems,  
9 including alcohol or drug abuse and emotional, marital, familial,  
10 financial, or other personal problems. Participation in the  
11 Education Employee Assistance Program shall be voluntary.

12       B. The Department of Mental Health and Substance Abuse Services  
13 may enter into contracts to carry out the purposes and functions of  
14 the Education Employee Assistance Program and establish standards  
15 and criteria which shall be met by entities to be eligible to  
16 contract with the Department.

17       C. The Board of Mental Health and Substance Abuse Services  
18 shall:

19       1. Promulgate rules necessary for the administration of the  
20 Education Employee Assistance Program and the maintenance and  
21 release of participant records; and

22       2. Establish evaluation methods to assess the effectiveness of  
23 the Education Employee Assistance Program.  
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1 D. Nothing in this section shall nullify a school district's  
2 existing employee assistance program or prohibit a school district  
3 from establishing its own employee assistance program; provided,  
4 however, such programs established by school districts shall be  
5 subject to compliance with rules promulgated by the Board to ensure  
6 equitable treatment of employees.

7 E. Records related to employee participation in the Education  
8 Employee Assistance Program or an employee assistance program  
9 established by a school district shall be maintained separately from  
10 regular personnel records and shall not become part of an employee's  
11 personnel file. Records related to an individual's participation in  
12 an employee assistance program shall be confidential and neither the  
13 records nor the testimony of an Education Employee Assistance  
14 Program professional shall be subject to subpoena unless a  
15 participant poses a threat to deliberately harm the participant or  
16 others. This determination shall be made by an Education Employee  
17 Assistance Program professional. A participant in an employee  
18 assistance program shall have a right to access his or her own  
19 employee assistance program records.

20 F. Nothing in this section or the rules promulgated pursuant to  
21 this section shall be construed to conflict with a school district's  
22 responsibility and authority to maintain discipline or to take  
23 disciplinary measures against employees if appropriate.  
24 Participation or nonparticipation in any education employee

1 assistance program shall not excuse an employee from discipline or  
2 otherwise affect the terms and conditions of the employee's  
3 employment status with a school district.

4 SECTION 2. This act shall become effective July 1, 2022.

5 SECTION 3. It being immediately necessary for the preservation  
6 of the public peace, health or safety, an emergency is hereby  
7 declared to exist, by reason whereof this act shall take effect and  
8 be in full force from and after its passage and approval.

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