

Mental Health Opt-In

6.13.2 Mental Health Services - Mental Health Services will be provided in accordance with the following policy:

A. Parental Opt-in Requirement for Students under Fourteen Years of Age. As required by Alabama Act 2022-442, no student under the age of fourteen may participate in ongoing school counseling services including, but not limited to, mental health services, unless (1) the student's parent or legal guardian has submitted a written opt-in granting permission for the student to participate or (2) there is an imminent threat to the health of the student or others.

B. Mental Health Services Defined. For purposes of this policy, "mental health services" include services, treatment, surveys, or assessments relating to mental health; however, it does not include instructional activities designed to educate students regarding topics related to mental health (1) contained in the school system's approved curriculum or (2) otherwise required to be taught by law (*e.g.*, Erin's Law; Jason Flatt Act). Furthermore, "ongoing school counseling services" shall not include those school counseling services which are split into domains not requiring a mental health therapist or other mental health therapeutic license.

C. Limits to Applicability of Policy. This policy is not applicable to any school counseling services or "mental health services" contained in a student's PST, IEP, or §504 plan. Consent for those services will be obtained in accordance the specific procedures required by federal and/or state law, and information regarding any mental health services will be provided in the pertinent plan. The opt-in requirement under this policy is not applicable to students who are fourteen years of age or older.

D. Notification Requirement. At least annually, the school system shall provide parents and legal guardians a written notification regarding school provided or sponsored mental health services. The notification will include the purpose and general description of each of the mental health services available; information regarding ways parents may review materials to be used in guidance and counseling programs available to students; and information regarding ways parents may allow, limit, or prevent their student's participation in the programs.

E. Opt-In Policies and Procedures.

1. *General Requirement* – For a student under the age of fourteen to participate in mental health services, written permission by the student's parent or legal guardian is required annually. The written permission must be specific as to any treatment and not broad in nature. Parents and legal guardians will be provided the opportunity to opt-in electronically during online enrollment, in connection with annual acknowledgment of receipt of the Code of Student Conduct, or by such other means and methods as may be customarily used for such purposes.

2. *Rescinding Permission* – A parent or guardian may rescind permission for a student under the age of fourteen to participate in mental health services at any time by providing written notice to the school principal.

3. *Requests for Opt-In and Referrals Authorized* – If a parent or legal guardian does not initially opt-in to mental health services, school officials may contact the parent or legal guardian to (a) attempt to obtain permission for the student to participate in mental health services if the school official believes that the student would benefit from services, or if circumstance arise for which services could be beneficial; and/or (b) provide a parent or legal guardian with a referral or information regarding mental health services that may be available to a student through other agencies or providers.

4. *Exception for Imminent Threat* – If a parent or legal guardian has not opted-in to mental health services, a student may be provided mental health services if there is an imminent threat to the health of the student or others. School employees may determine in their discretion whether such an imminent threat exists and provide any mental health services they deem necessary under the circumstances.

5. *Information for Parents/Legal Guardians* – If a student’s parent or legal guardian elects to opt-in to mental health services, the counselor providing services shall keep the parent fully informed regarding any diagnosis and any recommendations for additional counseling or treatments beyond the services for which the parent or legal guardian has already opted in. The parent shall have the authority to make final decisions regarding any such recommended counseling and treatments. **Nothing in this Opt-In for Mental Health Services shall be construed to limit the fundamental rights of parents or legal guardians to direct the care, custody, and control of their children.**

F. *Recordkeeping* – Written records maintained by the school system and directly related to a student’s mental health services will be treated in the same manner as health care records and are subject to the confidentiality protections applicable to education record generally. Such records will be available for examination and review by authorized persons in the manner prescribed and to the extent required by federal and/or state law. Records pertaining to a student’s mental health services will be kept separately from academic records unless including such record(s) in the student’s academic record is necessary to implement a state and/or federal law (*e.g.*, special education referral process).

[Reference: Ala. Act 2022-422, Effective July 1, 2022]