

Effective 5/14/2019

Superseded 9/1/2022

53G-9-203 Definitions -- School personnel -- Medical recommendations -- Exceptions -- Penalties.

- (1) As used in this section:
 - (a) "Health care professional" means a physician, physician assistant, nurse, dentist, or mental health therapist.
 - (b) "School personnel" means a school district or charter school employee, including a licensed, part-time, contract, or nonlicensed employee.
- (2) School personnel may:
 - (a) provide information and observations to a student's parent about that student, including observations and concerns in the following areas:
 - (i) progress;
 - (ii) health and wellness;
 - (iii) social interactions;
 - (iv) behavior; or
 - (v) topics consistent with Subsection 53E-9-203(6);
 - (b) communicate information and observations between school personnel regarding a child;
 - (c) refer students to other appropriate school personnel and agents, consistent with local school board or charter school policy, including referrals and communication with a school counselor or other mental health professionals working within the school system;
 - (d) consult or use appropriate health care professionals in the event of an emergency while the student is at school, consistent with the student emergency information provided at student enrollment;
 - (e) exercise their authority relating to the placement within the school or readmission of a child who may be or has been suspended or expelled for a violation of Section 53G-8-205; and
 - (f) complete a behavioral health evaluation form if requested by a student's parent to provide information to a licensed physician or physician assistant.
- (3) School personnel shall:
 - (a) report suspected child abuse consistent with Section 62A-4a-403;
 - (b) comply with applicable state and local health department laws, rules, and policies; and
 - (c) conduct evaluations and assessments consistent with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments.
- (4) Except as provided in Subsection (2), Subsection (6), and Section 53G-9-604, school personnel may not:
 - (a) recommend to a parent that a child take or continue to take a psychotropic medication;
 - (b) require that a student take or continue to take a psychotropic medication as a condition for attending school;
 - (c) recommend that a parent seek or use a type of psychiatric or psychological treatment for a child;
 - (d) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child, except where this Subsection (4)(d) conflicts with the Individuals with Disabilities Education Act, 20 U.S.C. Sec. 1400 et seq., and its subsequent amendments; or
 - (e) make a child abuse or neglect report to authorities, including the Division of Child and Family Services, solely or primarily on the basis that a parent refuses to consent to:
 - (i) a psychiatric, psychological, or behavioral treatment for a child, including the administration of a psychotropic medication to a child; or

- (ii) a psychiatric or behavioral health evaluation of a child.
- (5) Notwithstanding Subsection (4)(e), school personnel may make a report that would otherwise be prohibited under Subsection (4)(e) if failure to take the action described under Subsection (4)(e) would present a serious, imminent risk to the child's safety or the safety of others.
- (6) Notwithstanding Subsection (4), a school counselor or other mental health professional acting in accordance with Title 58, Chapter 60, Mental Health Professional Practice Act, or licensed through the state board, working within the school system may:
 - (a) recommend, but not require, a psychiatric or behavioral health evaluation of a child;
 - (b) recommend, but not require, psychiatric, psychological, or behavioral treatment for a child;
 - (c) conduct a psychiatric or behavioral health evaluation or mental health screening, test, evaluation, or assessment of a child in accordance with Section 53E-9-203; and
 - (d) provide to a parent, upon the specific request of the parent, a list of three or more health care professionals or providers, including licensed physicians, physician assistants, psychologists, or other health specialists.
- (7) Local school boards or charter schools shall adopt a policy:
 - (a) providing for training of appropriate school personnel on the provisions of this section; and
 - (b) indicating that an intentional violation of this section is cause for disciplinary action consistent with local school board or charter school policy and under Section 53G-11-513.
- (8) Nothing in this section shall be interpreted as discouraging general communication not prohibited by this section between school personnel and a student's parent.