



SENATE BILL 2055

By Walley

AN ACT to amend Tennessee Code Annotated, Title 49;
Title 68 and Title 71, relative to student services.

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

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 10, is amended by adding the following as a new part:

49-10-1501. Definitions.

As used in this part:

(1) "Applied behavior analysis" has the same meaning as "practice of applied behavior analysis" as that term is defined in § 63-11-302;

(2) "IEP" means the individualized education program developed, reviewed, and revised by an IEP team for a child with a disability in accordance with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

(3) "Licensed assistant behavior analyst" has the same meaning as defined in § 63-11-302;

(4) "Licensed behavior analyst" has the same meaning as defined in § 63-11-302;

(5) "Private pay provider" means a licensed behavior analyst or licensed assistant behavior analyst who provides applied behavior analysis to a student, is not employed or contracted directly by the LEA or public charter school in which the student receiving applied behavior analysis is enrolled, and is compensated privately by the student's family or by an external entity; and

(6) "Private pay services" means applied behavior analysis provided by a private pay provider on the grounds of the LEA or public charter school in which the student receiving the applied behavior analysis is enrolled.

49-10-1502. Student access to private pay services during the school day.

(a) LEAs and public charter schools shall allow a private pay provider who is under contract with a parent or legal guardian of a student with autism spectrum disorder or developmental delays who is enrolled in the LEA or public charter school, access to the student during the school day to provide the student with private pay services in educational settings that provide the least restrictive environment, including, but not limited to, classroom settings, as determined by the student's IEP or service agreement.

(b) A private pay provider must coordinate with the student's IEP team and school staff to ensure that private pay services only include the services specifically required under the student's IEP and that private pay services are integrated effectively into the student's school day without disrupting the overall classroom environment.

(c) Written consent from the student's parent or legal guardian is required for the provision of private pay services during the school day. The parent or legal guardian has the right to choose the private pay provider that provides services to the student.

(d) A licensed behavior analyst shall supervise private pay services delivered during the school day, including, but not limited to, those delivered by a licensed assistant behavior analyst, in accordance with national certification standards, and shall ensure the quality and fidelity of the private pay services delivered.

(e) LEAs and public charter schools shall provide accommodations necessary for private pay providers to deliver private pay services to a student during the school day, including, but not limited to, providing classroom access, appropriate space, and facilitating coordination between the private pay provider and school personnel.

(f) An LEA or public charter school shall not:

(1) Charge a fee or otherwise impose conditions or place barriers that may hinder or prevent private pay providers from accessing a student during the school day; provided, that the private pay services are aligned with the student's educational and developmental needs;

(2) Discriminate against or deny educational benefits or rights to a student who receives private pay services during the school day;

(3) Retaliate against a student, parent or legal guardian, or private pay provider for seeking or delivering private pay services on school premises; or

(4) Be held responsible for the costs of any private pay services provided to a student pursuant to this section, unless otherwise agreed to or required as part of a student's IEP or other legal agreement.

(g) If an LEA or public charter school disagrees with a private pay provider or with a parent or legal guardian regarding access or the provision of private pay services during the school day that cannot be resolved between the respective parties, then the department shall appoint an impartial hearing officer to resolve the dispute. The hearing officer shall give primary consideration to what is in the best interests of the student.

(h) A private pay provider shall comply with the background investigation requirements in § 49-5-413, and shall provide proof of licensure and certification to the LEA or public charter school before providing any services on school premises.

(i) The department shall, in consultation with relevant agencies and stakeholders, develop guidelines and best practices to facilitate the implementation of this section, including model agreements for private pay providers with LEAs and public charter schools. The department shall distribute the guidelines and best practices to each LEA and public charter school and post the same on the department's website.

SECTION 2. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it, and applies to the 2026-2027 school year and each school year thereafter.

Amendment No. 1 to SB2055

White
Signature of Sponsor

AMEND Senate Bill No. 2055*

House Bill No. 2327

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 10, is amended by adding the following as a new part:

49-10-1501. Definitions.

As used in this part:

(1) "Applied behavior analysis" has the same meaning as "practice of applied behavior analysis" as that term is defined in § 63-11-302;

(2) "IEP" means the individualized education program developed, reviewed, and revised by an IEP team for a child with a disability in accordance with the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.);

(3) "Licensed assistant behavior analyst" has the same meaning as defined in § 63-11-302;

(4) "Licensed behavior analyst" has the same meaning as defined in § 63-11-302;

(5) "Private pay provider" means a licensed behavior analyst, registered behavior technician, or licensed assistant behavior analyst who provides applied behavior analysis to a student, is not employed or contracted directly by the LEA or public charter school in which the student receiving applied behavior analysis is enrolled, and is compensated privately by the student's family or by an external entity;

(6) "Private pay services" means applied behavior analysis provided by a private pay provider on the grounds of the LEA or public charter school in which the student receiving the applied behavior analysis is enrolled; and

(7) "Registered behavior technician" means a paraprofessional who is certified by the Behavior Analyst Certification Board to implement applied behavior analysis services under the supervision and direction of a board-certified behavior analyst who retains responsibility for clinical oversight and outcomes.

49-10-1502. Student access to private pay services during the school day.

(a) LEAs and public charter schools shall allow a private pay provider who is under contract with a parent or legal guardian of a student with autism spectrum disorder or developmental delays who is enrolled in the LEA or public charter school, access to the student during the school day to provide the student with private pay services in educational settings that provide the least restrictive environment, including, but not limited to, classroom settings, as determined by the student's IEP or service agreement, in accordance with this section.

(b) Before a private pay provider provides services to a student pursuant to this section, the private pay provider shall:

(1) Coordinate with the student's IEP team and school staff to ensure that private pay services are integrated effectively into the student's school day without disrupting the overall classroom environment; and

(2) Execute a memorandum of understanding with the LEA or public charter school to outline the terms and expectations of the private pay provider's presence and participation in the school environment.

(c) Private pay services provided pursuant to this section:

(1) Must supplement, but not supplant, any requirements in a student's IEP;

(2) Must not be used to meet the requirements in a student's IEP; and

(3) Do not reduce an LEA's or public charter school's responsibility to provide a student with a FAPE.

(d) Before any private pay services are provided to the student during the school day pursuant to this section, the student's parent or legal guardian must provide written consent to the LEA or public charter school in which the student is enrolled acknowledging that the private pay services have been selected by the parent or legal guardian for their student and are not being provided by the LEA or public charter school. The written consent provided pursuant to this subsection (d) must also include a waiver signed by the student's parent or legal guardian waiving any liability on the LEA or public charter school arising solely from the acts or omissions of the private pay provider. This subsection (d) does not waive an LEA's or a public charter school's liability for any act or omission by the LEA, public charter school, or one (1) or more of the LEA's or public charter school's agents or employees that is negligent, willful, or constitutes a violation of state law.

(e) A licensed behavior analyst, contracted for and privately compensated by the student's parent or legal guardian or by an external entity, shall supervise private pay services delivered during the school day, including, but not limited to, those delivered by a licensed assistant behavior analyst or registered behavior technician, in accordance with national certification standards, and shall ensure the quality and fidelity of the private pay services delivered.

(f) LEAs and public charter schools shall provide reasonable accommodations necessary for private pay providers to deliver private pay services to a student during the school day, including, but not limited to, providing classroom access and facilitating coordination between the private pay provider and school personnel.

(g) An LEA or public charter school shall not:

(1) Charge a fee or otherwise impose conditions or place barriers that may hinder or prevent private pay providers from accessing a student during the school day; provided, that the private pay services are aligned with the student's educational and developmental needs;

(2) Discriminate against or deny educational benefits or rights to a student who receives private pay services during the school day;

(3) Retaliate against a student, parent or legal guardian, or private pay provider for seeking or delivering private pay services on school premises; or

(4) Be held responsible for the costs of any private pay services provided to a student pursuant to this section, unless otherwise agreed to or required as part of a student's IEP or other legal agreement.

(h) An LEA or public charter school shall adopt and implement a policy for operationalizing private pay services in the LEA or public charter school. The policy adopted pursuant to this subsection (h) must establish:

(1) How private pay providers will communicate, coordinate, and schedule with a student's IEP team;

(2) Professional expectations of private pay providers when providing private pay services in a school or classroom setting;

(3) A process for discontinuing or terminating private pay services if the LEA or public charter school determines that the private pay services of a private pay provider must be discontinued or terminated for cause;

(4) Whether a private pay provider may interact with others on school property who are not receiving private pay services, and, if permitted to do so, the extent to which private pay providers may interact with others on school property; and

(5) A local appeal process through which a student's parent or legal guardian may seek a resolution when the LEA or public charter school disagrees with the private pay provider or the provision of private pay services.

(i) A private pay provider shall comply with the background investigation requirements in § 49-5-413, and shall provide proof of licensure, certification, and professional insurance that covers the school as an additional insured party to the LEA or public charter school before providing any services on school premises.

(j) The department shall, in consultation with relevant agencies and stakeholders, develop guidelines and best practices to facilitate the implementation of this section, including model agreements for private pay providers with LEAs and public charter schools. The department shall distribute the guidelines and best practices to each LEA and public charter school and post the same on the department's website.

SECTION 2. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it, and applies to the 2026-2027 school year and each school year thereafter.

Amendment No. 1 to HB2327

White
Signature of Sponsor

AMEND Senate Bill No. 2055*

House Bill No. 2327

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 10, is amended by adding the following as a new part:

49-10-1501. Definitions.

As used in this part:

(1) "Applied behavior analysis" has the same meaning as "practice of applied behavior analysis" as that term is defined in § 63-11-302;

(2) "IEP" means the individualized education program developed, reviewed, and revised by an IEP team for a child with a disability in accordance with the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.);

(3) "Licensed assistant behavior analyst" has the same meaning as defined in § 63-11-302;

(4) "Licensed behavior analyst" has the same meaning as defined in § 63-11-302;

(5) "Private pay provider" means a licensed behavior analyst, registered behavior technician, or licensed assistant behavior analyst who provides applied behavior analysis to a student, is not employed or contracted directly by the LEA or public charter school in which the student receiving applied behavior analysis is enrolled, and is compensated privately by the student's family or by an external entity;

(6) "Private pay services" means applied behavior analysis provided by a private pay provider on the grounds of the LEA or public charter school in which the student receiving the applied behavior analysis is enrolled; and

(7) "Registered behavior technician" means a paraprofessional who is certified by the Behavior Analyst Certification Board to implement applied behavior analysis services under the supervision and direction of a board-certified behavior analyst who retains responsibility for clinical oversight and outcomes.

49-10-1502. Student access to private pay services during the school day.

(a) LEAs and public charter schools shall allow a private pay provider who is under contract with a parent or legal guardian of a student with autism spectrum disorder or developmental delays who is enrolled in the LEA or public charter school, access to the student during the school day to provide the student with private pay services in educational settings, including, but not limited to, classroom settings; provided, that the educational settings in which private pay services are provided do not conflict with the student's educational placement.

(b) Before a private pay provider provides services to a student pursuant to this section, the private pay provider shall:

(1) Coordinate, when appropriate, with the student's IEP team and school staff to ensure that private pay services are integrated effectively into the student's school day without disrupting the overall classroom environment, the delivery of instruction, or the student's access to the general curriculum, and do not consistently fragment the student's schedule in a way that reduces the student's access to the general education program or the student's core curriculum; and

(2) Execute a memorandum of understanding with the LEA or public charter school to outline the terms and expectations of the private pay provider's presence and participation in the school environment.

(c) Private pay services provided pursuant to this section:

(1) Must supplement, but not supplant, any requirements in a student's IEP;

(2) Must not be used to meet the requirements in a student's IEP; and

(3) Do not reduce an LEA's or public charter school's responsibility to provide a student with a FAPE.

(d) Before any private pay services are provided to the student during the school day pursuant to this section, the student's parent or legal guardian must provide written consent to the LEA or public charter school in which the student is enrolled acknowledging that the private pay services have been selected by the parent or legal guardian for their student and are not being provided by the LEA or public charter school. The written consent provided pursuant to this subsection (d) must also include a waiver signed by the student's parent or legal guardian waiving any liability on the LEA or public charter school arising solely from the acts or omissions of the private pay provider. This subsection (d) does not waive an LEA's or a public charter school's liability for any act or omission by the LEA, public charter school, or one (1) or more of the LEA's or public charter school's agents or employees that is negligent, willful, or constitutes a violation of state law.

(e) A licensed behavior analyst, contracted for and privately compensated by the student's parent or legal guardian or by an external entity, shall supervise private pay services delivered during the school day, including, but not limited to, those delivered by a licensed assistant behavior analyst or registered behavior technician, in accordance with national certification standards, and shall ensure the quality and fidelity of the private pay services delivered.

(f) LEAs and public charter schools shall provide reasonable accommodations necessary for private pay providers to deliver private pay services to a student during the school day, including, but not limited to, providing classroom access and facilitating coordination between the private pay provider and school personnel.

(g) An LEA or public charter school shall not:

(1) Charge a fee or otherwise impose conditions or place barriers that may hinder or prevent private pay providers from accessing a student during the school day; provided, that the private pay services are aligned with the student's educational and developmental needs;

(2) Discriminate against or deny educational benefits or rights to a student who receives private pay services during the school day;

(3) Retaliate against a student, parent or legal guardian, or private pay provider for seeking or delivering private pay services on school premises;

(4) Be held responsible for the costs of any private pay services provided to a student pursuant to this section; or

(5) Be held responsible for:

(A) Constructing special facilities for the provision of private pay services; or

(B) Purchasing special equipment for the provision of private pay services outside of what is customarily available at the school where the private pay services are being provided.

(h) An LEA or public charter school shall adopt and implement a policy for operationalizing private pay services in the LEA or public charter school. The policy adopted pursuant to this subsection (h) must establish:

(1) How private pay providers will communicate, coordinate, and schedule with a student's IEP team;

(2) Professional expectations of private pay providers when providing private pay services in a school or classroom setting;

(3) A process for discontinuing or terminating private pay services if the LEA or public charter school determines that the private pay services of a private pay provider must be discontinued or terminated for cause;

(4) Whether a private pay provider may interact with others on school property who are not receiving private pay services, and, if permitted to do so, the extent to which private pay providers may interact with others on school property; and

(5) A local appeal process through which a student's parent or legal guardian may seek a resolution when the LEA or public charter school disagrees with the private pay provider or the provision of private pay services.

(i) A private pay provider shall:

(1) Comply with the background investigation requirements in § 49-5-413;

(2) Provide proof of licensure, certification, and professional insurance that covers the school as an additional insured party to the LEA or public charter school before providing any services on school premises; and

(3) Adhere to the same student confidentiality laws, rules, regulations, and policies that employees of the LEA or public charter school in which the private pay provider provides services must follow.

(j) The department shall, in consultation with relevant agencies and stakeholders, develop guidelines and best practices to facilitate the implementation of this section, including model agreements for private pay providers with LEAs and public charter schools. The department shall distribute the guidelines and best practices to each LEA and public charter school and post the same on the department's website.

SECTION 2. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act takes effect upon becoming a law, the public welfare requiring it, and applies to the 2026-2027 school year and each school year thereafter.